TOWN OF DERRY

ZONING ORDINANCE

Revised - August 1991

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REVISED AUGUST - 1991

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HISTORY

Adopted March 4, 1975	Warrant Articles 4 and 6
Amended March 4, 1975	Warrant Article 4
Amended March 4, 1975	Warrant Article 9
Amended March 11, 1980	Warrant Articles 3,6,7
Amended March 10, 1981	Warrant Article 2,3,10
Amended March 9, 1982	Warrant Articles 3,9
Amended November 2, 1982	Ballot Items 1-5
Amended March 13, 1984	Warrant Articles
Amended November 6, 1984	Ballot Items 1-5
Effective May 28, 1987	Designation of Prime Wetlands
Effective August 21, 1987	Revised Floodplain Ordinance
Effective October 8, 1987	Regarding Duplex Dwellings
Effective December 10, 1987	Earth Removal Ordinance
Effective February 4, 1988	Natural Resources Zoning
Effective October 28, 1987	Underground Utilities
Effective May 28, 1987	1987 BOCA & 1985 Life Safety Code
Effective October 1, 1987	Increase in Building Fees
Effective December 1, 1988	New Section 1.193
Effective January 5, 1989	New Sections 1.192 & 1.194
Effective August 11, 1989	Community Water Systems
Effective August 11, 1989	Amend Building Provisions
Effective October 13, 1989	Industrial Zones I and II
Effective January 5, 1990	Amend Section 1.120
Effective July 5, 1990	Neighborhood Commercial Zones
Effective July 5, 1990	Definitions
Effective February 8, 1991	Delete PRD in its entirety
Effective March 7, 1991	Amend Art II, Sec 3 Amend Art II, Sec 6k (new) Amend Art VI, Sec 1, (new 6) Amend Art VI, Sec 3.9 Amend Art VII, Sec 5 & 6
Effective August 2, 1991	Bus/Ofc Dist (West Broadway)

HISTORY

Adopted March 4, 1975	Warrant Articles 4 and 6
Amended March 4, 1975	Warrant Article 4
Amended March 4, 1975	Warrant Article 2
Amended March 11, 1980	Warrant Articles 3,6,7
Amended March 10, 1981	Warrant Article 2,3,10
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Effective October 28, 1987	Underground Utilities
Effective May 28, 1987	1987 NRCA & 1988 Life Safety Code
Effective October 1, 1987	Increase in Building Fees
Effective December 1, 1988	New Section 1.189
Effective January 8, 1989	New Sections 1.192 & 1.194
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Effective August 2, 1991	Bus/Ofc Dist (West Broadway)

PREAMBLE

To promote the health, safety, convenience, and general welfare of the Town of Derry, to assure efficiency and economy in the process of developing the town and to keep it an attractive place in which to live and do business, the following ordinance is hereby enacted by the voters of said town in meeting convened in accordance with the authority conferred by Chapter 51, Section 50 to 71 of the Revised Laws of New Hampshire 1942 and Chapter 31 NHRSA 1955.

ARTICLE I - DEFINITIONS AND DEFINITIONS OF ZONES

a. Subdivision - means the division of the lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this title. (RSA 672:14 Adopted March 13, 1984)

For the purpose of this ordinance, Derry is divided into six zones: Retail Business Zone, Mobile Home Park Zone, General Residence Zone, Multi-Family Residence, Industrial Zone-District I, and Industrial-District II. **(This paragraph amended and effective 10/13/89)**

Section 1.100 - RETAIL BUSINESS ZONE

Section 1.110 - The area bounded by a line 200 feet south of South Avenue, A line 200 feet west of Maple Street and Central Street, a line along the center of Rollins Street, and Lenox Road, a line 200 feet east of Birch Street and Crystal Avenue.

Section 1.111 - North side: From the Westerly side of Marlboro Road to 200 feet from Crystal Avenue. Such zone to be 200′ wide measured from the edge of the Right-of-Way and running parallel to East Broadway. South side: From the Westerly side of Park Avenue to 200′ from Birch Street. Such zone to be 200′ wide and running parallel to East Broadway.

Section 1.115 - Within the Retail Business Zone as described in Section 1.110 shall be an area known as the Downtown Business District, bounded as follows:

Beginning at the intersection of the Westerly side of Maple Street and the North side of Broadway, thence continuing in a northerly direction along the West side of Maple Street to the North side of Rollins Street, thence Easterly along the North

PREAMBLE

To promote the health, safety, convenience, and general welfare of the Town of Derry, to ensure efficiency and economy in the process of developing the town and to keep it an attractive place in which to live and do business, the following ordinance is hereby enacted by the voters of said town in meeting convened in accordance with the authority conferred by Chapter 31, Section 60 to 71 of the Revised Laws of New Hampshire 1942 and Chapter 31 NHRSA 1955.

ARTICLE I - DEFINITIONS AND DEFINITIONS OF ZONES

a. Subdivision - means the division of the lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this title. (RSA 672:14 Adopted March 13, 1984)

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Section 1.115 - Within the Retail Business Zone as described in Section 1.110 shall be an area known as the Downtown Business District; bounded as follows:

Beginning at the intersection of the Westerly side of Maple Street and the North side of Broadway, thence continuing in a northerly direction along the West side of Maple Street to the North side of Rollins Street, thence Easterly along the North

side of Rollins Street to the intersection of Rollins Street and the East side of Crystal Avenue, thence crossing Crystal Avenue to the South side of Lenox Road and its intersection with the East side of Crystal Avenue, thence Easterly along the South side of Lenox Road to a point which would be established if the Westerly side of Marlboro Road were extended to intersect said South side of Lenox Road. Then Southerly along the Westerly side of Marlboro Road to East Broadway, then crossing East Broadway to the Westerly side of Park Avenue, then Southerly along the West side of Park Avenue for a distance of 200´, then turning Westerly and running parallel with the South side of East Broadway to the West side of Birch Street, thence South along the West side of Birch Street to the intersection of Birch Street and the South side of South Avenue, thence running Westerly along the South side of South Avenue to a point intersection an extension of the Westerly side of Central Street, thence running along the Westerly side of Central Street to its intersection with the South side of West Broadway, thence running in a Westerly direction across Broadway to the point of beginning, and containing all the lands lying therein.

Section 1.120 - The area 200 feet either side of Birch Street and Crystal Avenue extending from Shutes Corner at the southern end to Ross Corner on the north. The depth of said Retail Business Zone on the Easterly side of Crystal Avenue shall extend Easterly to the Cooperative School District land and land of Gilbert H. Hood, Jr. from a point on Crystal Avenue at the northerly bound of the walkway to the Cooperative School District land to a point northerly thereof Crystal Avenue at the Northerly bound of land Herbert Gurney (A&W Root Beer). All of the area of Derry Tax Map Parcel 122-3618 which is not already included in the Retail Business Zone as described (Section 1.120).**(Amended & Eff 1/5/90)**

Section 1.121 - The area bounded and described as follows: Beginning at a point in the southwest corner of a parcel of land owned by Public Service Company of N.H. Pension Fund, said point being on the easterly property line of Crystal Avenue, approximately 360´ southerly of the intersection of said Crystal Avenue and Pinkerton Street. Thence S 73 degrees 26´ 00" E - 380.00´ to a point, said point being the southeasterly boundary of a parcel of land owned by Public Company of N.H. Pension Fund; thence N 16 degrees 26´ 00" E 345.69´ to a point, said point being on the south boundary of Pinkerton Street; thence along Pinkerton Street 611.23´ to the northwesterly corner of a subdivision approved by the Town of Derry on November 22, 1966, designated as Hoodkroft Block No. 2; thence S 00 degrees 29´ 33" W W 1288.95´ to a point, said point being on the north property line of the Derry Cooperative School District N 42 degrees 07´ 21" W 930.19´ to a point, said point being the northeast corner of the property owned by Herbert Gurney; thence N 73 degrees 28´ 26" W 540.00´ to a point, said point being on easterly property line of Crystal Avenue; thence along said easterly property line

of Crystal Avenue N 16 degrees 31′ 34" E 294.76′ to the point of beginning, said described parcel of land contains 17.52 acres of land, more or less.

Section 1.130 - The area 600 feet either side of Rockingham Road from Lawrence Road to the Windham town line.

Section 1.140 - The area 600 feet either side of Londonderry Turnpike from West Running Brook on the north to a line 200′ northerly of Berry on the South.

Section 1.150 - All distances in the above sections are measured from the center of the street or road. Where a boundary line of a zoning district divides a lot in single ownership upon effective date of these amendments, or amendment to the zoning map, either zoning district may be interpreted as extending no further than 25 feet into the adjacent district.

Section 1.160 - All that land included on the following description: Commencing at a point on the Southwesterly side of Route 28, also known as the Manchester Road and at land owned by Tinkham Enterprises, Inc. formerly Doctor John Giblin Farm; thence Southwesterly by said Tinkham land to said Tinkham southeasterly bound; thence continuing in the same direction in a straight line to Franklin Street; thence Southeasterly by Franklin Street to its intersection with Folsom Road; thence Northeasterly by Folsom Road to its intersection with the Manchester Road; thence Northwesterly by the Manchester Road to the point of beginning.

Section 1.170 - A certain parcel of land containing 12.65 acres more or less situated on the Southerly side of Pinkerton Street; Westerly by commercial land formerly of Hood Plaza Development Corporation, Inc. now Hood Shopping Plaza, owned by Julian Cohen; Southwesterly by land of Cooperative School District No. 1 of the Town of Derry; Southerly by Perley Road; and Easterly by a private road known as Peabody Road, extending Northerly from said Perley Road to said Pinkerton Street.

Section 1.180 - The area consisting of 8.1 acres of land bordered Easterly by land of the Cooperative School District; Southerly by said School District land and land of Granite State Acceptance Corporation; Northerly by Peabody Road; and Westerly by Hood Shopping Plaza.

Section 1.190 - The area situated at the intersection of the Northerly line of Route 102 and the Easterly line of Route 28 By-Pass bounded Southerly by State Highway 102 a/k/a Chester Road; Westerly by land formerly of Mary B. Hill now believed to be owned by R & N Realty and the location of the Wilbert Coburn Vault Corp. Meaning and intending to include in the above description the comprised by No 1 North Main Street (formerly owned by Zirpolo), and No 3 North Main Street (formerly owned by

Tomaszewski), and No. 5 North Main (formerly owned by Goyette) now owned by Charles Cutter, et al by deed dated May 21, 1968 and the Derry Village Trust, Inc. by deed recorded in the Rockingham County Registry of Deeds, Volume 1919, page 460, and request that the same be considered by said Planning Board as provided statute.

Section 1.191 - The area beginning at the Londonderry-Derry Town Line and running along the northerly side of West Broadway to Dickey Street; thence along the westerly side of Dickey Street to the Londonderry-Derry Town Line.

Section 1.192 - All that land located on Storer Court in the Town of Derry, County of Rockingham State of New Hampshire as described by deed being Derry Tax Map 116, Parcel 26145-1. **(Effective 1/5/89)**

Section 1.193 - All that land on Tsienneto Road described by deed being Derry Tax Map 128, Parcels 0873, 0873-1, 0874, 0875 and 0876. **(Effective 12/1/88)**

Section 1.194 - The area 600 feet back from the centerline on the northerly side of NH Route 111 from the Atkinson town line to Island Pond Road and all that land as described by deed being Derry Tax Map 106 Parcels 04114, 04114-1, 04117, 04117-1, 04120, 04120-1, 04121-2, and on the southerly side being Parcels 04118, 04119, 04119-1, 04126, 04127, 04128 and 04130. **(Effective 1/5/89)**

SECTION 1.200 - INDUSTRIAL ZONE DISTRICT I

Industrial Zone-District I includes Sections 1.210, 1.220, 1.230, 1.240, 1.250, 1.260, 1.270, 1.280, 1.290, 1.300, 1.310, 1.320. **(Effective 10/13/89)**

Section 1.210 - John Shaw Machine Co., Reo Homes, Inc. about 8.3 acres of land shown on Plan of Land in Derry, N.H. (a portion being in Londonderry) as drawn for Reo Homes, Inc. June 1966 by Edward N. Herbert. Starting at a stone wall on the Southerly side of Manchester Road (Route 28) near the Londonderry Town Line; thence Easterly by Manchester Road Six Hundred Thirty-Eight (638.0′) feet to an iron pipe at land now or formerly Elwin Pingree; thence South 5 degrees West Two Hundred Sixty-Five (265′) feet by said Pingree to an iron pipe; thence South 55 degrees to 30′ East One Hundred Sixty-five (165′) by said Pingree to an iron pipe set in the wall at land of the Twenty-Eight land and party by a wall Four Hundred Sixty-Five (465′) feet to a wire fence at land now or formerly of Adrian Cote and Fred Ball; thence Westerly about Three Hundred Thirty (330′) feet to the Londonderry Town Line; thence Northerly by the Town line and other land of Reo Homes about Seven Hundred Twenty (720′) feet to a stone wall at land formerly of Michael Golden; thence by the stone wall and Golden land North 30 degrees 30′ East Eight (80′) feet to the point of beginning.

Section 1.220 - Starting at the intersection of Tsienneto Road and Manchester Road; thence Westerly by Manchester Road about One Thousand Forty (1040´) feet to the boundary between the Giblin Farm to By-Pass 28; thence Southerly by the By-Pass about Five Hundred (500´) feet to the line between the Ross Farm and the Giblin Farm; thence Southwesterly about parallel to Tsienneto Road and about Five Hundred (500´) feet Westerly thereof along the line between the Giblin and the Ross Farms to the extension of the line of the Derry Shoe land; thence Southeasterly following the line of Derry Shoe land to Tsienneto Road. Also the part of the Giblin Farm Southerly of Manchester Road about Five Hundred (500´) feet Westerly of Ross Corner, Five Hundred Forty (540´) feet on Manchester Road and about One Thousand Four Hundred (1400´) feet deep.

Section 1.230 - The area bounded by the Southerly line of the General Business Zone on South Avenue; Easterly by the centerline of the Boston and Maine Railroad; Southerly by Beaver Brook; Westerly by a line Three Hundred Fifty (350´) feet from the center of the railroad.

Section 1.240 - The area starting 490 feet Easterly of the intersection of Scobie Pond Road and Manchester Road; thence Southeasterly by said Manchester Road 900 feet; thence Northeasterly by Roger Mathes land 600 feet; thence Northerly by said Mathes land 900 feet; thence Southwesterly by land of Frank and Mary Young 1,025 feet.

Section 1.250 - Starting at the Westerly side of the Industrial Zone as described in Section 1.220; thence Northeasterly 3,031 feet bordering said Industrial Zone; thence Northwesterly 1,237 feet by the land of J.F. Kizer; thence Southwesterly by the land of George Armstrong and Roger Mathes 2,997 feet to the land of Alfred and Delores Indorato, Southeasterly 283 feet and Southwesterly by Manchester Road 792 feet to point of beginning.

Section 1.260 - All of the land bounded and described as follows: Commencing on the Southerly side of Kendall Pond Road at Shute´s Corner; thence Southwesterly by Kendall Pond Road to the East of the Manchester and Lawrence Railroad right-of-way; thence crossing said railroad to the Easterly side of the right-of-way for said Interstate 93; thence Southerly by said highway right-of-way to the Windham Town line; thence Easterly by said Town line to a point at the road leading from Shute´s Corner to Windham near where said road crosses said railroad; thence Northerly by the Westerly side of said Windham Road to the point of beginning.

Section 1.270 - Beginning at the intersection of Route 28, a/k/a the Manchester Road, and the Londonderry Town line; thence Northerly by Londonderry Town line to the road leading to Scobie Pond known as Webster Road; thence Southeasterly by said Webster

Road to its intersection with Scobie Pond Road; thence Southerly by Scobie Road to Route 28; thence Westerly along Route 28 to the point of beginning.

Section 1.290 - All of the land not presently included in the Industrial Zone situated on the Southerly side of the State Highway Route 28, a/k/a as the Manchester Road commencing at a point on the Southwesterly side of said road and at the Northwesterly bound of the Tinkham Industrial Park so called (formerly the Doctor John Giblin Farm); thence Northwesterly by said Manchester Road to the Londonderry Town line; thence Southwesterly by said Londonderry Town line to Franklin Street to land now or formerly of Merton Radway; thence Northeasterly by Radway land and said Tinkham Industrial Park to the point of beginning.

Section 1.300 - All land not presently in the Industrial Zone included within the following area, bounded as follows: Southerly by Route 28 known as the Old Manchester Road; Easterly by the former Martha Smith Farm, now Angelo Cataldo land; Northwesterly by the power line easement of the Public Service Co. of New Hampshire (meaning the power line presently crossing the Londonderry Turnpike at the top of the hill Northerly of Pinkerton Academy); and Westerly by the Scobie Pond Road so called.

Section 1.310 - All land included in the following description commencing at the intersection of Franklin Street and the Londonderry Town line; thence Southerly by the Londonderry Town line to its intersection with the Overhead Bridge Road, so called; thence Northeasterly by said Overhead Bridge Road and North High Street to its intersection with Franklin Street; thence Northwesterly by Franklin Street to the point of beginning.

Section 1.320 - All Industrial Zones in District I only, with the exception of that zone described in Section 1.260, shall be limited to places for the manufacture of various products, including but not limited to appliances, building material, chemicals, clothing, food, furniture, instruments, office supplies, plastics, photographic and optical products, sporting goods, textiles, transportation equipment, wood products. Other large scale uses including but not limited to building materials storage and sale, freight terminal, fuel and storage tanks, mail order storage yards, truck terminal, warehouse, wholesale businesses, and sand and gravel pits, except that retail business shall be allowed only in the Industrial Zones of District I north of Broadway. That said industry must be of a type that does not produce smoke other than from normal heating and power producing purposes. That said industry is not one of the following: Acetylene Gas Manufacture, Ammonia, Beachline Powder, Chlorine Manufacture, Asphalt Manufacturing or refining, Blast Furnace, Boiler Making Brick, Terra Cotta or Tile Manufacturing, Coke

Manufacturing, Creosote Treatment or Manufacturing, Dye Stuff Manufacturing, Emery Cloth or Sandpaper Manufacturing, Foundries, Slaughtering of Animals or Fowls, Smelting or Ores, Stockyards, Tanning or Curing of Raw Hides or Skins or Japanning of leather, Tar Distillation or Manufacturing, Manufacturing of Tar Roofing or Tar Waterproofing, Manufacture of Gunpowder and Other Explosives.

Agricultural and forestry uses shall also be permitted.

Accessory uses, buildings and structures usually associated with these permitted uses shall be allowed, including off-street parking facility, signs and temporary buildings for uses incidental to construction.

LOT AREA - Minimum of 1 acre (43,560 square feet)

MINIMUM YARD DEPTHS - 30 foot front yard, 20 foot side yards, 20 foot rear yard.

HEIGHT - The Planning Board shall review and approve all heights for proposed buildings.

WATER AND SEWER - Town Water and Sewer shall be used if available. Otherwise, State approved water and sewer systems shall be required.

SITE PLAN APPROVAL - All uses shall require Planning Board review and approval of the site plan.

BUFFER ZONES - Before any building, parking lot, or driveway can be constructed that is non-residential in nature and abuts a residence or residential district, a buffer zone will be established with the following minimum characteristics:

1. It shall abut a residence or Residential district and be a minimum of Fifty (50′) feet wide.

2. It shall be landscaped and maintained with the purpose in mind to diminish the effect of lighting, sound and odor created by the non-residential use.

    a. Minimum plantings for the buffer zone shall be three rows of coniferous type trees running parallel with the residential district. These trees shall have a minimum height of six feet and be planted at a distance of 12-16 feet on center. They shall be staggered so as to present a more dense buffer zone. Landscaping of the buffer zone shall be approved by the Planning Board.

Section 1.330 - MOBILE HOME SUBDIVISIONS

This section of the ordinance intends to expand the permitted uses in subdivisions described below to include mobile homes over and above the permitted uses already in effect.

The intent of this section also is to accommodate RSA 31:118 and 119 into the Town zoning by allowing the incorporation of manufactured housing units into all areas of the Town under certain specified conditions thereby providing free choice of location to all citizens while minimizing any potential for diminution in existing property values.

Section 1.331 - MANUFACTURED HOUSING (MOBILE HOMES) SUBDIVISIONS

A. Manufactured housing built to the existing Town code, 1987 BOCA Code, shall be allowed in all areas of Town where residential construction is presently allowed, under the same conditions which it is allowed.

B. Manufactured housing built to the 1974 Mobile Home Safety and Standard Code and subsequent amendments thereto shall be located in (Mobile Home) subdivision anywhere within the Town provided they meet the following requirements:

1. The minimum parcel size shall be 30 acres. The minimum may be adjusted downward by a maximum of 10% subject to the review and approval by the Zoning Board of Adjustment.
2. The maximum parcel size shall be 60 acres. The maximum size may be adjusted upward by a maximum of 10% subject to the review and approval of the Zoning Board of Adjustment.
3. Once the total acreage of Manufactured Housing (Mobile Home) subdivisions as contained within this section reaches 4% (1,080 acres) of the total land area of the Town, no further manufactured housing shall be approved by the Planning Board.
4. The (Mobile Home) subdivisions contained within this section shall allow not only manufactured housing but also any other type of construction normally allowed within the general zone in which the subdivision is located.
5. The manufactured housing subdivisions shall comply with Article III, Section 3 of the Zoning Ordinance.
6. In order to provide fair and impartial application of these regulations to all sections of the Town and to all landowners, the outer perimeter lines of individual manufactured housing subdivisions shall be no closer than 1/2 mile to each other. For the purpose of this section, existing mobile home parks within the Town are not to be considered manufactured housing subdivisions.
7. Manufactured Housing/Mobile Home subdivisions shall contain the following:

a. A 50′ buffer zone within the outer perimeter lines from which any type of construction is prohibited and said prohibition be included in the deeds of the affected lots.

b. Manufactured Housing units within the manufactured housing subdivision shall not be closer than 150′ from any pre-existing inhabited residential structure situated outside the zone; the term "existing", as used herein applies to structures in existence at the time the final subdivision plan is submitted to the Planning Board.

Section 1.340 - MOBILE HOMES PARK ZONES

Section 1.341 - Whispering Pines Mobile Home Village

This area of land bordered on the East by the Londonderry Turnpike By-Pass 28; on the West by Londonderry Town line; on the South by a line parallel to the Londonderry-Auburn Town lines; and about One Thousand Eight Hundred Seventy (1,870′) feet South thereof, intending to include the area now occupied by Whispering Pines Mobile Home Park.

Section 1.342 - MacMillan Mobile Home Park

The area shown on plan of MacMillan Mobile Home Park. MacMillan land starting at a stone wall at former Clyde Otis land of Windham Road One Thousand One Hundred Twenty (1,120′) feet Westerly of the intersection with Route 28; thence Westerly along Windham Road Nine Hundred Ninety Eight (998′) feet to a wall at former Scott land, thence South 10 degrees East Three Hundred Forty-Five (345′) feet to a bend in the wall; thence further along Scott land Six Hundred Sixty-One (661′) feet to the Windham Town line; thence Easterly by the Windham Town line Four Hundred Twelve (412′) feet to a stone wall at land formerly Brown Estate; then Easterly along the wall and Brown land One Hundred Sixty-Two (162′) feet to the bend in the wall; thence east Five Hundred Ten (510′) feet to a corner of the wall; thence West along Brown land Six Hundred Seventy-Five (675′) feet to the Clyde land; then Westerly along Clyde land Three Hundred Seventy-Five (375′) feet; thence North 10 degrees West by Clyde land Five Hundred Fifty (550′) feet to the point of beginning. Also the parcel of land across the road from the above parcel starting at a point One Thousand Thirty (1,030′) feet Westerly of Route 28 bordering Windham Road One Thousand Two Hundred Twenty-Eight (1.228′) feet and Seven Hundred Twenty-Five (725′) feet deep.

Section 1.370 - All mobile homes installed after the enactment date of this amendment shall be located:

Section 1.371 - In a mobile home subdivision as defined in Section 1.330 and is in compliance with Article III, Section 3 of th Ordinance.

Section 1.372 - At a location presently occupied by a mobile home provided it complies with Article II, Section 6, except that a land owner or lessee may accommodate the trailer or mobile home as a non-paying guest for a period or periods not to exceed 30 days in each calendar year.

Section 1.373 - In a legally existing mobile home park as defined in Section 1.340 of the Ordinance.

Section 1.380 - DEFINITIONS

Section 1.381 - For the purpose of zoning laws of the Town of Derry, a mobile home is defined as follows:

A single family dwelling unit with all the following characteristics:

a. Designed for long term occupancy containing a flush toilet, a tub or shower bath, a cooking and eating facilities, with plumbing and electrical connections provided for attachment to outside systems.
b. Designed to be transported, after fabrication, on its own wheels or on flatbed or other trailer or detachable wheels.
c. Arrives at the site where it is to be occupied as a dwelling substantially complete, including major appliances and ready for occupancy except for minor unpacking and assembly operations.
d. Is capable of being readily disconnected or disassembled and moved to another location.
e. A mobile home unit is defined as such if the unit has been built in accordance with the National Mobile Home Construction and Safety Act of 1974 and any subsequent amendments thereto, and the unit is properly labeled and certified to these standards by an independent Third Party Inspection Agency.

Section 1.382 - In contrast to a Mobile Home, a Manufactured dwelling is one:

a. In which major structural or utility components are transported after fabrication, by flatbed, trailer or other device, but not on its own wheels.
b. The components of which arrive at the site where it is to be occupied without major appliances and furniture, and is not ready for occupancy.
c. Which is designed and intended for permanent installation on a lot, and cannot be readily moved to another location.
d. Is constructed in accordance with the applicable building code of the Town.

Section 1.400 - GENERAL RESIDENCE ZONE

Section 1.410 - All the rest of the Town not included in the preceding three zones shall be limited to residential type construction and uses, except as otherwise provided in this ordinance. Business uses secondary to the home may be permitted, by special exception from the Zoning Board of Adjustment, to allow a place of work within their legal residence for persons employed in one of the following trades:

1. Lawyer, doctor, clergyman, real estate agent, insurance agent or similar recognized profession;
2. Artist, artisan or craftsman;
3. Tradesman or repairman.

Provided:

1. Such business use is not injurious, noxious or offensive to the neighborhood by reason of emission of odor, fumes, dust, smoke, vibration, noise or other cause;
2. The residential use is established prior to the business use;
3. The residential use is conducted within the residential building or other existing structure, and does not exceed 25 percent of the total normal living area of the residence. The normal living area is defined as that portion of the residential building consisting of living room/s, family room/s, den/s bedroom/s and laundry room/s;
4. The business use does not change the residential character of the dwelling and the property;
5. Not more than one sign or other advertising device is displayed on the property and it does not exceed a size of three square feet;
6. Not more than one person not residing in the home is employed on the premises at the same time;
7. Sufficient off-street parking for employees, clients, and customers is provided, and where lot size permits, the parking is not within 25 feet of the front lot line nor within 10 feet of the side or rear lot lines;
8. Not more than one business use will be conducted on the property;
9. The business is not in any way contrary to any covenants or conditions contained on the deed to the property.

Special exceptions granted under this ordinance are intended to allow for a specific business use by the current residents, and as such, shall not be transferable to subsequent occupants.

Section 1.500 - MULTI-FAMILY RESIDENTIAL ZONE

The intent of the Multi-Family residential zone is to allow various densities or residential development including single family, two family and multi-family residences within a single zone.

Section 1.510 - The multi-family residential zone shall consist of all the lands within the following bounds: Commencing at a point in the geographical center of Route 28 By-Pass, so called, 1,000 feet north of the geographical center of Webster's Corner, so called, thence proceeding Westerly along the center of and following the course of West Running Brook to a point where West Running Brook intersects with Beaver Brook, thence along and following the course of the center line of Beaver Brook in a Northerly direction to where Beaver Brook crosses Route 28 By-Pass, thence turning and running Southeasterly along said By-Pass 28 to the point of beginning.

Section 1.520 - It shall also include a certain parcel of land bounded as follows: Commencing at a point at the geographical center of the intersection of Tsienneto Road, so called, and Pinkerton Street, so called, thence proceeding Northeasterly along the center line of Tsienneto Road and North Main Street, so called; thence turning and running Southeasterly along said North Main Street to the land now or formerly of Sarah H. and Herbert MacGregor; thence turning and running in a Southwesterly direction along the Northerly boundary of said MacGregor land to the intersection of land of MacGregor and Pinkerton Academy; thence following along land now or formerly of Pinkerton Academy to a point where Pinkerton Academy land abuts land now or formerly of Edward Smith and Herbert Hood; thence proceeding Southerly along the boundary line of Smith/Hood land to the geographical center of Pinkerton Street right-of-way to the point on beginning.

Section 1.530 - It shall also include a certain parcel of land bounded as follows: Bounded by a line 200 feet south of South Avenue, a line 200 feet west of Maple Street and Central Street, a line along the center of Rollins Street and Lenox Road, a line 200 feet east of Birch Street and Crystal Avenue. The area 200 feet either side of Birch Street and Crystal Avenue extending from Shute's Corner at the southern end to Ross Corner on the north. The depth of said Retail Business Zone on the easterly side of Crystal Avenue shall extend Easterly to the Cooperative School District land and land of Gilbert H. Hood, Jr. from a point on Crystal Avenue at the Northerly bound of the walkway to Cooperative School District land to a point Northerly thereof on Crystal Avenue to the Northerly bound of land of Herbert Gurney.

Section 1.600 - "INDUSTRIAL ZONE DISTRICT II"**(Effective 10/13/89)**

District Objective

This district allows for the establishment of office and light manufacturing employment opportunities in the community and takes into consideration vehicular and truck access and the availability of municipal water and sewer. Research and development and office activities should be concentrated in this area.

Any permitted industrial use of which no land, building, structure, or equipment shall be used for any purpose which would be injurious, noxious, or offensive by way of odor, fumes, smoke, dust, vibration, noise, or other objectionable features or hazardous to the community on account of fire or explosion or any other cause. All development proposed in this district shall be subject to Planning Board Site Plan Review.

A. LOT CHARACTERISTICS - 1 Acre (43,560 square feet) with a width of 125 feet at the 30 foot setback line from the street; 20 feet side and rear lot line setbacks.

In the absence of municipal sewer, minimum lot size will be one acre and must also meet the lot size requirements specified in Table 1A, "Minimum Lot Size by Soil Type" in the Derry Subdivision Regulations.

B. BUFFER ZONES - A buffer zone will be established with the following characteristics:

1. It shall abut a residence or Residential district and be a minimum of Fifty (50′) feet wide.

2. It shall be landscaped and maintained with the purpose in mind to diminish the effect of lighting, sound and odor created by the non-residential use.

    a. Minimum plantings for the buffer zone shall be three rows of coniferous type trees running parallel with the residential district. These trees shall have a minimum height of six feet and be planted at a distance of 12-16 feet on center. They shall be staggered so as to present a more dense buffer zone. Landscaping of the buffer zone shall be approved by the Planning Board.

SECTION 1.610 - INDUSTRIAL ZONE II shall include all that land located on Tsienneto Road as described by deed being Derry tax map 128 parcel 0879.

Only the following uses are permitted within the area defined by this Section 1.610:

1. Manufacturing Industries.
2. Warehouse and Wholesale uses.
3. Professional office and appurtenant uses in buildings of greater than 20,000 square feet. Building heights of up to 60 feet shall be permitted, not withstanding any other provision of this Zoning Ordinance.
4. Public Utilities.
5. Parking garages.
6. Animal Hospital, Veterinary Clinics.
7. Printing establishment.
8. Industrial supply establishment.
9. Hotel/Motel.
10. Breweries and Bottling Facilities.
11. Enclosed Recycling of non-hazardous materials.

SECTION 1.620 - INDUSTRIAL ZONE II shall also include all that land located on Scobie Pond Road and described by deed being Derry tax map 128, parcels 0861-1, 0813, and Derry tax map 134, parcels 0814 and 0817.

Only the following uses only are permitted within the area defined by this Section 1.620:

1. Manufacturing Industries.
2. Warehouse and Wholesale uses.
3. Professional office uses in buildings of greater than 10,000 square feet. Building heights of up to 100 feet shall be permitted, not withstanding any other provision of this Zoning Ordinance.
4. Public Utilities.
5. Machinery and Transportation equipment, sales, service and repair.
6. Freight and Trucking Terminals, Offices and Brokers.
7. Contractors Yards.
8. Parking garages.
9. Animal Hospital, Veterinary Clinics.
10. Bulk Fuel Storage and Distribution.
11. Printing Establishment.
12. Contract Cleaning Establishment.
13. Industrial Supply Establishment.
14. Hotel/Motel.
15. Breweries and Bottling Facilities.
16. Enclosed Recycling of non-hazardous materials.

Section 1.700 BUSINESS/OFFICE DISTRICT

SECTION 1. PURPOSE

The Business/Office District is established for the purpose of permitting appropriate uses to occur within an area of the community where the predominant character has been, and will possibly continue to be, subject to change as a result of the growth which has affected the Town as a whole, and as a result of the influence exerted by the increased traffic volume on West Broadway. It is intended that the types of land use activities which would be allowed within this district should not greatly aggravate an already serious traffic problem on West Broadway, nor should they have a severe detrimental impact on the existing residential uses which may continue to be maintained in the district.

For these reasons, certain prohibitions, restrictions, limitations, and requirements are deemed to be necessary and appropriate.

SECTION 2. DISTRICT DESCRIPTION

The Business/Office District shall consist of the following parcels as shown on the Town of Derry Property Tax Map Number 116, updated to April 1, 1990, copy of which is attached:

Parcels 2626 through 2628
Parcels 2632 and 2633
Parcels 2642 through 2653
Parcels 2657 and 2658
Parcels 2665 and 2665-1
Parcel 2666
Parcels 2666-1 and 2666-2
Parcel 2667
Parcel 26114
Parcels 26122 through 26125
Parcel 26141
Parcels 26145 through 26149
Parcels 29135 through 29137
Parcels 29202 and 29203

SECTION 3. PERMITTED USES

Land use activities permitted within this district shall be limited to the following, and further, shall be subject to such other limitations as are specified herein:

A. Business and professional offices such as those for doctors, dentists and real estate

B. Single family detached dwellings

C. Single family detached dwellings containing a maximum of one (1) business or professional office of the type described herein

D. Offices to handle the sale of products and services where such products and services are not available on the premises

E. Those uses allowed pursuant to Section 5

SECTION 4. PROHIBITED USES

Land use activities which are specifically prohibited within this district include but are not necessarily limited to, the following:

A. Grocery and convenience stores

B. Drug stores

C. Restaurants

D. Fast food sales

E. Day care services

F. Gasoline stations

G. Sales, repairs and/or service facilities intended principally for motor vehicles

H. Video rentals

I. Other retail business except as allowed in Section 5

J. Other uses which, in the opinion of the Planning Board, would likely have an adverse impact on the character of the district or on West Broadway traffic conditions and traffic safety.

SECTION 5. OTHER ALLOWABLE USE

Retail business uses may be allowed provided that the floor area devoted to such use does not exceed three hundred (300) square feet and that a minimum of two (2) off-street spaces are provided for customer parking, and as required pursuant to Section 8.

SECTION 6. LIMITATIONS

The following limitations shall apply to the conversion of existing residential structures, and to the construction of new nonresidential structures within this district:

A. Conversion of Existing Structures - Existing residential structures may be converted to a permitted nonresidential use provided that:

1. the total of the floor area to be devoted to the nonresidential use shall not exceed the aggregate of the living floor space of the dwelling unit. For the purpose of this limitation, the term "living floor space" shall not include basement, cellar, attic, or storage areas;

2. the footprint of the existing structure shall not be enlarged or modified; and

3. the exterior architecture of the existing structure shall not be modified to the extent that the structure no longer retains a residential appearance.

B. New Construction - If an existing residential structure is removed, in whole or in part, or if a vacant parcel is developed for the purpose of establishing a permitted nonresidential use, the following requirements shall apply:

1. The nonresidential use shall comply with the following lot area, dimensional and yard requirements:

a. Minimum lot area - 10,000 square feet

b. Minimum lot width - 100 feet at the street line

c. Minimum building setbacks- front yard 35 feet from the edge of the street R.O.W.;
- side and rear yards, 15 feet each from the property line.

2. New structures shall be designed and constructed so that their architectural appearance, scale, proportion, and material will blend with the existing residential character of the district. Consideration should be given to each of the following:

a. the height, bulk and area of the structure;

b. the type and the pitch of the roof;

c. the size and the spacing of windows, doors and other openings;

d. the size, type and location of towers, chimneys and roof structures; and

e. the exterior colors and materials.

SECTION 7 SITE PLAN REVIEW

Any change from a residential to a nonresidential use of a lot or structure, whether in whole or in part, or the development or change or expansion of the use of a lot or structure for nonresidential uses shall be subject to review and approval by the Planning Board in accordance with the Town of Derry Site Plan Review Regulations, whether or not such development, change or expansion includes a subdivision or resubdivision of the site.

SECTION 8 OFF-STREET PARKING

A. Residential Use - Off-street parking shall be provided on the basis of one (1) space per bedroom, with a minimum of three (3) spaces being required per dwelling unit.

B. Non-residential Use - Off-street parking shall be provided in accordance with the Town of Derry Site Plan Review Regulations.

C. All off-street parking areas shall be provided in such a way that no vehicle will be required or will be likely to back into the street or into the lot.

D. No off-street parking will be allowed on the lot any closer than 25 feet from the street R.O.W. line.

E. No parking will be allowed within the designated buffer zone.

SECTION 9 BUFFER ZONE

Where a non-residential use in this district abuts a residential use in this district, or abuts a residential district, a buffer zone shall be established to help diminish the effects of the non-residential use on the abutting residential use or residential district. The characteristics of the buffer zone shall be as follows:

A. It shall have a minimum width of 10 feet, being parallel to and running the entire length of the non-residential use property line, or as required by the Planning Board.

B. It shall be planted with a single row of evergreen type trees or shrubs which, at the time of planting, shall have a minimum height of 6 feet. Said trees or shrubs shall also be maintained at a height of at least 6 feet.

C. The spacing of said trees or shrubs shall be such that they will create a dense screening at the time of planting.

SECTION 10 MAXIMUM LOT COVERAGE

Lot coverage by principal and accessory uses, structures and buildings, including parking areas, shall, in the aggregate, not exceed 70 percent of the lot area.

SECTION 11 CURB CUT

There shall be allowed only one (1) curb cut per lot per lot, on West Broadway. Said curb cut shall not exceed 20 feet in width.

SECTION 12 CONFORMING AND NONCONFORMING LOTS AND STRUCTURES, AND NONCONFORMING USES

A. All existing lots within this district, having structures thereon, shall be considered to be legally conforming lots until such time as the structures are either removed or damaged by storm or fire to the extent that the replacement or repair cost exceeds 50 percent of the original structure's assessed valuation, then such lots shall be considered to be nonconforming lots unless they meet the lot area and frontage requirements cited in Section 6.B.1 of this Article.

B. Existing nonconforming structures may continue to be used for legally permitted purposes until such time as they are either removed or damaged as described in part A of this Section' then such structures may only be replaced in accordance with the requirements of this Article, other pertinent provisions of this Ordinance, and in accordance with the Site Plan Review Regulations.

C. Existing nonconforming structures and nonconforming lots and uses shall not be rendered more nonconforming.

D. All existing nonconforming uses which legally existed on the effective date of this Article may continue until such time as they are discontinued for a period of 12 consecutive months; then they may be replaced only by a permitted use.

SECTION 13 SIGNS

Signs shall be permitted in this district in accordance with the provisions of Article VI of this Ordinance, subject to further compliance with the following additional limitations:

A. there shall be allowed only one sign per lot

B. The surface area, as defined in Article II, Section 14 of this Ordinance, shall not exceed 10 square feet.

C. The sign shall not be internally illuminated and shall not utilize internally illuminated lettering.

D. The sign shall be set back on the lot a distance of at least 10 feet from the nearest edge of the roadway pavement.

SECTION 14. CONFLICTING PROVISIONS

Where the provisions of this Article conflict with any other provision of this Ordinance or the Site Plan Review Regulations, the more restrictive provision shall take precedence.

ARTICLE II - GENERAL PROVISIONS

Section 1 - Nothing in this ordinance shall be construed to prevent the continuance of any existing use of land or building, but when any non-conforming use is discontinued for at least one year or any building or structure is altered, or destroyed by fire, lightning or otherwise damaged to an extent affecting the valuation of said building more than 50 percent of its replacement value, said building shall be subject to the building provisions of this ordinance. No addition shall be built that brings any part of the addition closer to the lot line than required for new construction.

Section 2.0 - The purpose of this article is to regulate uses in important wetland and watershed areas. The objective is to prevent the destruction of watershed areas and wetlands which provide flood protection, recharge of ground water supply, and augmentation of stream flow, and for the protection of the community against the costs that may be incurred when unsuitable development occurs in swamps, marshes, along water courses, or in areas, subject to floods. In event of conflict between the requirements of this section and the permitted uses within a zoning district, the requirement of this section shall take precedence.

Section 2.1 - This area, to be known as the Conservation Corridor, shall be all lands in the Hundred Year Flood Plain determined by the Federal Insurance Administration's Flood Insurance Rate Maps (FIRM) and the Flood Boundary and Floodway Maps, dated April 15, 1981 on file with the Town Clerk, Planning Board and Building Inspector. These maps as well as the accompanying Derry Flood Insurance Study are incorporated herein by reference.

Section 2.2 - The following uses may be permitted: Agriculture, forestry, wildlife management, outdoor recreation activities, providing that they do not alter the existing topography, and construction and maintenance of public water supply systems, and construction and maintenance of public sewer and utility systems. Accessory uses and structures usually associated with these permitted uses shall be allowed provided that such accessory uses do not affect the existing topography, and that no accessory building is larger than 500 square feet.

Section 2.3 - The following uses are prohibited; All new construction or placement of new buildings of any except as

provided in Section 2.2 Existing uses may be expanded by special exception of the Zoning Board of Adjustment where it is shown that such expansion will not be contrary to the purposes set forth in this article.

There shall not be allowed: new sub-surface waste treatment systems; piggeries, manure stockpiling; mink farms; amusement parks; race tracks; outdoor movie theaters; junk yards or any use that in the opinion of the Zoning Administrator is contrary to the intent or purposes of this article.

In the event that the Zoning Board of Adjustment grants a special exception to expand on an existing use, the following requirement shall apply when applicable:

Request for a special exception shall also require a review by the Conservation Commission. The Conservation Commission shall submit its recommendations, in writing, its response to the Conservation Commission recommendations.

Section 2.4 - Certification by a registered professional engineer is provided by the applicant demonstrating that the development in the floodway shall not result in any increase in the flood levels during the occurrence of the 100 year flood.

Section 2.4.1 - By reference, to adopt the **DERRY FLOODPLAIN DEVELOPMENT ORDINANCE** as proposed by the Civil Defense Agency, State of New Hampshire, Document #0505D, dated 1-12-87, with the exception of Item IX, which is herein deleted, and as if herein printed in its entirety.

Section 2.5 - A buffer zone between a septic tank or absorption field and the Conservation Corridor shall be One Hundred Twenty-Five (125') feet. (Adopted November 6, 1984)

DERRY FLOODPLAIN DEVELOPMENT ORDINANCE

The following regulations shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency in its "Flood Insurance Study for the Town of DERRY, N.H." together with the associated Flood Insurance Rate Maps (FIRM) and Flood Boundary and Floodway maps of the Town of DERRY, N.H., dated April 15, 1981, which are declared to be a part of this ordinance.

Item I - Definition of Terms

"AREA OF SHALLOW FLOODING" means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"AREA OF SPECIAL FLOOD HAZARD" is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, Vo or V1-30, VE or V.

"BASE FLOOD" means the flood having a one percent chance of being equaled or exceeded in any given year.

"BASEMENT" means any area of the building having its floor subgrade (below ground level) on all sides.

"BUILDING" -- see "structure".

"BREAKAWAY WALL" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.

"COASTAL HIGH HAZARD AREA" means the area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated on a FIRM as Zone V1-30, VE or V.

"DEVELOPMENT" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

"FLOOD OR FLOODING" means: A general and temporary condition of partial or complete inundate of normally dry land areas from:

1. The over flow of inland or tidal waters.
2. The unusual and rapid accumulation of runoff of surface waters from any source.

"FLOOD BOUNDARY AND FLOODWAY MAP" (FLOODWAY) is an official map of the community, on which the Federal Emergency Management Agency (FEMA) has delineated the "Regulatory Floodway". This map should not be used to determine the correct flood hazard zone of base flood elevation, the Flood Insurance Rate Map (FIRM) will be used to make determinations of flood hazard zones and base flood elevations.

"FLOOD ELEVATION STUDY" means an examination evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

"FLOOD HAZARD BOUNDARY MAP" (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the flood, mudslide (i.e. mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

"FLOOD INSURANCE RATE MAP" (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.

"FLOOD INSURANCE STUDY" see "flood elevation study".

"FLOOD PLAIN" or "flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

"FLOOD PROOFING" means any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"FLOODWAY" -- see "regulatory flooding".

"FUNCTIONAL DEPENDENT USE" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

"HIGH ADJACENT GRADE" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"LOWEST FLOOR" means the lowest floor of the lowest enclosed area, (including basement). An unfinished or flood resistance enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided, that such enclosure is not built so as to render the requirements of this ordinance.

"MEAN SEA LEVEL" means, for the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"MANUFACTURED HOME" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when

connected to the required utilities. For flood plain management purposed the term "manufactured home" includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

"MANUFACTURED HOME PARK OR SUBDIVISION" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"100-YEAR FLOOD" -- see "base flood".

"REGULATORY FLOODWAY" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. These areas are designated as floodways on the Flood Boundary and Floodway Maps.

"RIVERINE means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"SPECIAL FLOOD HAZARD AREA" means an area having special flood, mudslide (i.e. mudflow) and/or flood-related erosion hazards and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M, or E. (See Area of Special Flood Hazard)

"STRUCTURE" means for flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"START OF CONSTRUCTION" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

"SUBSTANTIAL IMPROVEMENT" means any combination of repairs, reconstruction, alteration or improvements to a structure in which the cumulative cost equals or exceeds fifty (50%) percent

of the market value of the structure. The market value of the structure should be:

1. The appraised value of the structure prior to the start of the initial repair or improvement, or
2. In the case of damage, the value of the structure prior to the damage occurring.

For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places.

"V-ZONE" -- see "coastal high hazard area".

"WATER SURFACE ELEVATION" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains or coastal or riverine areas.

ITEM II

All proposed development in any special flood hazard areas shall require a permit.

ITEM III

The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:

1. be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. be constructed with materials resistant to flood damage.
3. be constructed by methods and practices that minimize flood damage.
4. be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

ITEM IV

Where new and replacement water and sewer systems (including on-site systems) and proposed in flood prone areas the applicant

shall provide the Building Inspector with assurance that new and replacement sanitary sewage systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

ITEM V

The Building Inspector shall maintain for public inspection, and furnish upon request, any certification of flood-proofing and the as built elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and include whether or not such structures contain a basement. If the structure has been flood-proofed, the as built elevation (in relation to mean sea level) to which the structure was flood-proofed. This information must be furnished by the applicant.

ITEM VI

The Building Inspector shall review proposed developments to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. It shall be the responsibility of the applicant to certify these assurances to the Building Inspector.

ITEM VII

In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Environmental Services Department and submit copies of such notification to the Building Inspector. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector.

Within the altered or relocated portion of any watercourse, the applicant shall submit to the Building Inspector, certification provided by a registered professional engineer assuring that the flood carrying capacity of the watercourse has been maintained.

Along watercourses that have a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the designated Regulatory Floodway that would result in any increase in the flood levels within the community during the base flood discharge. In Zone A the Building Inspector shall obtain, a review and reasonably utilize any floodway data available from a Federal, State or other source as criteria for requiring that development meet the floodway requirements of this section.

Along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 and AE on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the Community.

ITEM VIII

1. In special flood hazard areas the Building Inspector shall determine the 100 year flood elevation in the following order of precedence according to the data available:
   a. In Zones A1-30, AH, AE, V1-30 and VE refer to the elevation provided in the communities Flood Insurance Study and accompanying FIRM or FHBM.
   b. In unnumbered A zones the Building Inspector shall obtain, review, and reasonably utilize any 100 year flood elevation data available from the Federal, State development proposals submitted to the community (example subdivisions, site approvals, etc.) or other source.
   c. In Zone AO the 100 year flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or if no depth number is specified on the FIRM at least two feet.

2. The Building Inspector's 100 year flood elevation determination will be used as criteria for requiring in Zones A1-30, AE, AH, AO and A that:
   a. all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level;
   b. that all new construction and substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level; or together with attendant utility and sanitary facilities, shall:
      (i) be flood-proofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
      (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
      (iii) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.
   c. all manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base

flood level; and be securely anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and Local anchoring requirements for resisting wind forces;

d. for all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted providing the enclosed areas meet the following requirements:
   1. the enclosed area is unfinished or flood resistant usable solely for parking of vehicles, building access or storage.
   2. the area is not a basement.
   3. shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

   Designs for meeting this requirements must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be no higher than one foot above grade. Openings may be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;

e. proposed structures to be located on slopes in Special Flood Hazard Areas, Zones AH and AD, shall include adequate drainage paths to guide flood waters around and away from the proposed structures.

NOTE: The above Section 2.0 to this point/Effective 8-21-87

Section 3 - No junk yard or place for the storage of discarded machinery, vehicles, or other materials shall be permitted.

Section 6 - No permit shall be granted for the construction of or placement of a building or dwelling on a lot in any zone unless said lot shall comply with the following requirements:

a. As used in this section, a residential lot shall be defined as a lot or parcel of land on which a single family dwelling, duplex dwelling (any two-family dwelling, consisting of two dwelling units), or mobile home is located, including lots for placement within Mobile Home Parks. **(Effective 10/8/87**

b. Except as set forth elsewhere in this ordinance, all lots **WITHOUT** Town sewer shall contain a minimum area of one acre per dwelling unit with a width of at least 125′ at the 35′ setback line from the street or on the road and all lots **WITH** Town sewer shall contain a minimum of 30,000 square feet per dwelling unit with a width of at least 125′ at the 35′ setback line from the street or on the road.

However, this requirement shall not be applicable to any legally existing or approved lot containing at least 25,000 square feet with a width of 125′ at the 35′ setback line from the street or on the road, provided said lot meets the requirements for the State Water Supply and Pollution Control Commission (WSPCC). **(Effective 10/8/87)**

c. (1) In the Multi-Family Residential Zone only, residential lots where municipal water or municipal sewer are available, shall contain a minimum of 15,000 square feet with a width of at least 100′ at the 35′ setback line from the street or on the road. Residential lots where community water systems are available, must contain a minimum of one acre (43,560 sq. ft.) with a width of at least 125′ at the 35′ setback line or on the road. **(Effective 10/8/87)**

(2) In the Multi-Family Residential Zone only, residential lots where both public water and sewer are available shall contain a minimum of 10,000 square feet with a width of at least 100′ at the 35′ setback line or on the road. **(Effective 10/8/87)**

d. Only one residential building or dwelling shall be situated on a lot.

e. Each residential lot must face on an approved street.

f. All buildings or dwellings shall be set back with a minimum of Thirty-Five (35′) feet from the street line or to conform with the average setback of the structures, Three Hundred (300′) feet from either side of the building on the same side of the street. Side and back line setback shall be a minimum of Fifteen (15′) feet.

g. No commercial or industrial building shall be constructed or placed on a lot smaller than that required for a dwelling.

h. Buildings or business not connected to public sewer shall require 10,000 square feet of lot size above the minimum for the zone for each 200 gallons per day of sewage effluent after the first 200 gallons per day unless the owner can show adequate plans for sewage disposal on a smaller lot.

i. Any business built or expanded after the date of this ordinance shall have adequate off-street parking for employees and customers on land in the same title as the business property.

j. All Duplex dwellings shall be located in the Multi-Family residential zone. **(Effective 10/8/87)**

k. Creation of an additional dwelling unit (accessory apartment) in an <u>existing single family dwelling</u> shall be subject to the following conditions:

1. The lot on which the building is situated must have the minimum area for the zoning district

in which it is located.

2. Where municipal sewer is not provided the owner shall have written approval from N.H. Water Supply & Pollution Control Division that the septic system meets the requirements for the combined use.
3. Off-street parking shall be provided for at least four (4) vehicles.
4. The existing structure cannot be increased more than ten percent (10%) of the total floor area.
5. The additional dwelling unit cannot exceed four hundred square feet (400 s.f.), nor can the existing dwelling be reduced to less than eight hundred square feet (800 s.f.).
6. The additional dwelling unit must be attached to the existing dwelling or in a structure attached to the existing dwelling.
7. No conversion of independent free standing structures for an additional dwelling unit will be allowed.
8. No additional expansion of a dwelling with an existing attached structure will be allowed for the creation of an additional dwelling unit.
9. Room sizes must conform to the minimum requirements CABA One & Two Family Dwelling Code.
10. The additional dwelling unit shall be composed of and limited to kitchen, living room, one bedroom, and a bathroom.
11. The structure and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the existing single-family. The additional dwelling use shall be recorded by deed addendum.
12. An additional dwelling unit shall not be allowed in conjunction with any other exception.
13. An additional dwelling unit shall not be permitted in conjunction with a variance from any requirement of Article II, Section 6. **(New Item 'k'-Effective 3/7/91)**

Section 7 - MULTIPLE DWELLINGS

Multiple dwellings shall be allowed in only those zoning districts where the use is specifically permitted.

Definitions - MULTIPLE DWELLINGS

A dwelling or building designed and used exclusively for residential purposes by more than two families, each suite having an independent entrance from the ground and halls, but no connection with each other except in such portion as may be a two family dwelling and divided form one another by party walls and floors or both.

APARTMENT HOUSE - Is a building arranged or intended or designed to be occupied by three or more families living independently of each other and doing their cooking upon the premises, or by three or more individuals living independently but having a common heating system and a general dining room.

GARDEN TYPE APARTMENT HOUSES - Garden Type Apartment Houses are buildings conforming to multiple dwelling and/or apartment house specifications located with each building having its own subdivided lot and cluster developments acceptable provided all requirements of this section are met. All multiple dwellings shall be planned so that the entire subdivision will have light and air and recreational area and shall have a common sewer.

REQUIREMENTS:

Density: A maximum of 12 units per acre.
Maximum lot coverage: Broadway - 25%.
Minimum lot frontage: 150 feet.
Minimum lot setbacks, Front, Rear, Side Yards: 30 feet.
Maximum height: 60 feet.

Distance between buildings for Garden Type Apartments: 35 feet.

Off Street Parking: A parking space - an area of not less than 180 square feet not exclusively of access or maneuvering area, or ramps or columns, to be used exclusively as a temporary storage space for motor vehicles. Two (2) parking spaces per dwelling unit shall be provided.

Recreation Space: 15 percent gross area.

Maximum length of structure: Two Hundred (200') feet.

Water and Sewer: Multiple dwellings, apartment houses and Garden Type Houses shall be connected to the municipal water and sewer system.

Construction Requirements: As established in the currently adopted 1990 BOCA Building Code and the 1990 Fire Codes (Effective March 7, 1991).

Section 8 - The building and construction of churches together with accessory uses shall be permitted in any area of the Town of Derry, New Hampshire.

Section 11 - **EARTH REMOVAL ORDINANCE**

AUTHORITY - By the authority granted in RSA 155-E and in the interest of public health, safety and general welfare for the Town of Derry this ordinance is hereby established and effective **December 10, 1987**

GENERAL

1.01 In accordance with the procedures, standards and conditions hereinafter specified, the Planning Board may permit the excavation or grading, filling or removal from any lot of any earth, loam, topsoil, sand, gravel, clay or stone. The purpose of this section is to protect the ecological processes which are depended on physiography; to protect well water supplies; minimize rapid surface runoff of rain water and melt water; preserve a cover crop on the land to prevent erosion and control any excavation that may create a safety hazard or health hazard to the public or to adjacent property owners, or be detrimental to the immediate neighborhood or to the Town.

1.02 The provisions of this ordinance shall be inapplicable to:

A. The construction of a wall, driveway, road, sewer or water line, fence, sidewalk or the landscape gardening of the property upon which excavation is taking place.

B. The removal by a person of topsoil from one part of his land to another part of the same premises, when such removal is necessary as an accessory use or is made for the purpose of farming, landscaping or improving said property.

C. Grading and filling where no topsoil, earth, sand, gravel, rock or other substance is removed from the premises.

D. An excavation which is made solely for the purpose of the construction of a structure upon and where the property is excavated.

PERMITS

2.01 Before any excavation (except one to which this ordinance is inapplicable, see Section 1.02) is commenced or any existing excavation is continued, the owner or lessee of the property shall obtain a written permit therefore from the Planning Board of the Town of Derry, New Hampshire.

2.02 The Planning Board shall issue said permit only when the applicant has submitted:

A. An application (together with a Fifty ($50) Dollar application fee in such form as the Planning Board shall prescribe) which shall contain at least:

1. A written statement of the proposed work and the condition and final grades of the property after the work is completed and;
2. The proposed dates of the commencement and estimated date of completion of work.

B. Maps and Plans

1. Be drawn on a sheet of paper 14" x 24".

2. Show the location and elevation of all existing and proposed streets, roads or highways on or adjoining the property; show vehicular access to property; show existing and proposed drainage, wetlands and prime wetlands, rivers, streams, water courses, ponds and swamps; show details of regrading and revegetation of the site at the conclusion of operations; show proposed re-use after cessation of operation.
3. Show the location and boundary dimensions of the portion of the property upon which it is proposed to excavate or to continue to excavate.
4. Show the existing contours and proposed new elevations of the area upon which the excavation is to be made and of the area surrounding it within 100 feet.
5. Set forth in figures the estimated acreage or square footage and the volume to be removed.
6. Show details of dust control measures.

C. If, in the judgment of the Planning Board, the scale or nature of the proposed excavation of fill justified it, the Planning Board may require that appropriate maps shall be prepared by and bear the seal of a licensed LAND SURVEYOR OR ENGINEER.

D. Proof that written notice of the excavation has been given to the holders of any mortgages on the property and, if the applicant is not the owner, proof that written notice of the excavation has been given to such owner and the owner has agreed to allow such excavation.

E. A written statement from the Tax Collector of the Town of Derry (on form to be furnished and prescribed by the Planning Board) certifying that all current taxes levied against the property have been paid in full and that there are no unreleased tax liens encumbering said property.

F. A fee of Fifty ($50) Dollars to open and operate a gravel pit is payable, at the time of permit issuance, in cash or by check payable to the order of the Town of Derry.

G. An annual renewal and permit fee of Fifty ($50) Dollars is to be payable to the order of the Town of Derry.

H. At the discretion of the Planning Board, the equivalent of a surety company performance bond or a surety company performance bond written by a company licensed to do business in the State of New Hampshire to the Town of Derry in such amount as shall, in the

reasonable judgment of the Planning Board, be sufficient to insure full and faithful compliance with all of this ordinance, may be required. The excavator shall inform the Planning Board of any excavations made below the final elevations as shown on the surveys submitted and said Planning Board shall thereupon or whenever they have knowledge of such excavation, have power to adjust the amount of the bond required.

2.03 All permits shall expire one year from the date of issuance. All permits shall be renewable if in compliance with the provisions of Section 11 provided, however, that additional maps and other data need be submitted only if such maps or other data would be markedly different from those already filed under the provisions of this ordinance.

2.04 Any permit shall be revoked by the Planning Board when there has been a violation of any provision of this ordinance, provided that notice of said violation has been given to the excavator together with an order to comply within a reasonable time, as determined by the Planning Board and as set forth in said order, and the excavator has failed to comply.

2.05 The provisions of Section 2.02 may be waived in the case of excavations from which less than 1,000 cubic yards of materials are excavated in a calendar year.

REGULATIONS

3.01 No excavation shall be made:

A. Within Fifty (50′) feet of any property or road right-of-way line. Every effort shall be made to retain any natural or right-of-way. The Fifty (50′) foot restriction may be reduced to Ten (10′) feet if the owner of the abutting property consents. The restriction may be stricken completely if there are two consenting contiguous active excavators.

B. No processing machinery shall be erected or maintained on the lot within 300 feet of any property line, and such machinery shall be removed from the lot upon expiration of the permit. No material shall be stockpiled or located outside the permit area.

C. Unless the final slope or the excavation will not be in excess of 2-1 (horizontal-vertical).

D. Unless adequate barricades or fences shall be erected and maintained at established access points, together with adequate provisions for prevention of flying dust and the accumulation of ground or surface water, unless adequate provisions shall be made for the muffling of sound and the prevention of dissemination of dust,

unless provisions shall be made for such highway warning of similar signs as may be proper, all subject to the approval of the Planning Board.

E. Unless the permittee agrees:
1. Should fill be required to achieve the finish grade as specified on the application it shall be clean, nonburnable fill containing no garbage, refuse, offal any deleterious or unwholesome matter, hazardous or toxic material.
2. To cover the sloped areas with a suitable mulch or arable top soil, so as to minimize soil erosion.

3.02 No topsoil shall be removed or stripped unless a minimum of 2" of topsoil is retained and replaced so that reseeding may be accomplished.

3.03 Any permittee or agent thereof under a permit granted under the terms of this ordinance, who shall cause damage to any road or roads of the Town of Derry, shall be liable for the cost of repairing said damage.

3.04 Nothing herein contained shall be construed to forbid the creation of a lake or pond, provided that adequate provision has been made for the runoff of water in such manner as will not injure any road, highway, or abutting property.

3.05 Existing active banks whose normal operations cease for more than One Hundred Twenty (120) consecutive days shall leave the slopes of the bank in such condition that they conform to the provision of Section 3.01. Authority for the determination of cessation of operations shall reside with the Planning Board.

3.06 Upon completion of the work authorized, the area or excavation or otherwise disturbed ground shall be prepared or restored as follows:

A. Depending on the proposed re-use of the affected area the following criteria shall govern the depth of the final excavation:

REUSE:	Minimal elevation of bottom excavation.
BUILDING:	Five feet above annual mean high water table or conforming to the original grade prior to any excavation or disturbance of the earth.
POND:	Five feet below mean annual water table.

B. Such an area shall be evenly graded to slopes not exceeding One (1') foot of rise to Two (2') feet of horizontal distance. The required slope may be

modified by the Planning Board where ledge rock makes steeper slopes possible or to a lesser slope if necessary for soil stability or safety or reasonable re-use and development of the lot.

C. Adequate drainways of gradual slope shall be provided to assure drainage where necessary to avoid a potential concentration of runoff water, stone riprap, channels, drop chutes or other mechanical devices shall be installed.

D. All debris, loose boulders and stumps not incorporated into the improvement of the lot shall be burned or removed from the lot. All organic debris must be burned or removed from the lot.

E. Arable soil shall be spread on areas that present a severe erosion hazard, seeded with grass, mulched with suitable material or otherwise maintained until the ground has been stabilized with a dense cover, and there exists minimal danger or erosion. On areas not subject to potentially severe erosion other vegetation may be established such as suitable grasses, shrubs or trees.

ADMINISTRATION

4.01 Hearing on Permit - No earth, loam, topsoil, sand, gravel, clay, or stone shall be removed from any area except in accordance with the provisions of this ordinance and the written permission of the Planning Board, after a public hearing is held upon fourteen (14) day due notice in a local newspaper having a circulation with the Town and notices by registered or certified mail are sent to the abutters of record (as of the most recent tax list) from which such material is to be removed. The Planning Board shall impose any restriction necessary to protect the interests of the Town.

4.02 Duration and Renewal of Permit - All permits shall be for a period of twelve (12) months. A permit may be renewed within 30 days before the expiration date of said permit providing that there exists no violation of the terms of the current permit. Extensions will be granted provided that excavation has not gone beyond the plans originally submitted. Failure to apply for a renewal of a permit shall constitute prima facie evidence of completion of operations.

4.03 Revocation of Permit - The Planning Board may, after a public hearing on proof of violations of any condition of this ordinance or restriction imposed by the Planning Board, revoke any permits issued by them.

4.04 Professional Engineer or Surveyor - If, in the opinion of the Planning Board, special assistance is required to ensure that the provision of this article are being carried out, a professional or surveyor, knowledgeable in such areas, may be retained by the Board to make such investigation and determination as from time to time may be necessary. The cost of such services may be billed to the applicant/operator. The performance bond required in Section 2.02 H may serve as surety for any such amounts due.

4.05 Penalty - The penalty for violation of this ordinance shall be as follows:

One Hundred ($100) for each offense, and for the second offense by the same person or permit holder, immediate revocation of permit.

4.06 Town Operations - All fees are hereby waived if such operation is conducted solely by or on behalf of the Town of Derry for municipal purposes of the Town. The filling, excavation, grading or removal, however, shall meet all the standards and conditions of this ordinance.

Section 12 - COMMUNITY WATER SYSTEMS

All Community Water Systems, including the well lots where pumphouse and wells are located, shall be deeded to the Town of Derry upon satisfactory completion and testing of the entire system. The Town ownership of the Community Water System shall include the water main, pipes from the water main to the pumphouse, pipes from the pumphouse to the wells, the well system, the well lot and all water service lines from the water main to the property line or water service curb stop. Well lots shall be of sufficient size to encompass at least the entire area within the required protective exclusion radius. **(Effective 8/11/89)**

SECTION 13 - NEIGHBORHOOD COMMERCIAL ZONES Effective 7/5/90

OBJECTIVES AND CHARACTERISTICS

It is the intent of the Town of Derry to create zoning districts within the Town, to be known as Neighborhood Commercial or "NC" zones. An NC zone is intended to provide an opportunity for the development of limited retail sales and service facilities in the proximity of residential neighborhoods, thus minimizing unnecessary traffic congestion in the major shopping areas within the Town as well as helping to reduce national fuel consumption. It is intended that any such facilities will be designed to blend harmoniously with the residential areas in which they are located and will be spaced such that they will afford convenience to the

neighborhoods in which they are located, but will not create substantial or continuous commercial zones.

LOCATION OF NC ZONES

NC zones are intended to be "floating" zones, and may be located anywhere within the Town of Derry provided that they meet the following criteria:

1) No NC zone (or portion thereof) shall be located within one and one-half miles (horizontal straight-line measure) from
   (a) any other NC zone,
   (b) any commercial, business or industrial zone within the Town (in which NC Zone uses are permitted) or
   (c) the nearest boundary of a parcel of property on which any other existing "convenience" store which regularly sells milk, bread, eggs, soda or newspapers is located within the Town; and

2) The Planning Board has approved and filed a Plat in the Registry of Deeds, designated as an NC zone, based upon the requirements of this ordinance as well as the Planning Board's Subdivision, Site Plan Review and other applicable regulations; and

3) The Code Enforcement Officer (CEO) has not filed a "Notice of Termination of NC Zone", in accordance with the provisions entitled "Duration of NC Zones" as set forth below.

In the event that more than one applicant submits an application for establishment of an NC zone, which if approved would conflict with Paragraph 1) above, the first application received by the Planning Board which contains complete and correct data, information, permits and approvals shall take precedence.

SIZE OF NC ZONES

An NC zone shall be the same size as, and coincident with, a single lot (parcel) which conforms with the minimum lot size requirements for residential lots in the underlying (surrounding) zone (including, where applicable, lot size by soil type).

DURATION OF NC ZONES

An NC zone shall continue to exist so long as it is in compliance with the provisions of this ordinance, including but not limited to the provisions related to hours of operation. A period of one year following Planning Board approval and recording of a plat is allowed for the construction and commencement of operation of the facilities, as evidenced by the issuance of a Certificate of Occupancy, for the retail sales of groceries and sundries,

failing which the CEO shall issue a "Notice of Termination of NC Zone", which shall be filed in the Registry of Deeds. The one year period may be extended for a reasonable additional period of time provided that the applicants have diligently pursued and have in good faith attempted to complete construction within such time period.

In the event that an NC zone (or the activities therein) fails to comply with the requirements of this ordinance in any way, for an aggregate period of 90 days in any 12 month period, the CEO of the Town of Derry shall revoke the Certificate of Occupancy for all facilities and operations within the NC zone. Within thirty (30) days following the final outcome of any permitted appeals of the decision of the CEO, which result in the decision being sustained, the CEO shall issue a "Notice of Termination of NC Zone", which shall be filed in the Registry of Deeds.

The duration of the NC zone shall not be adversely affected by the expansion of an industrial, business or commercial zone subsequent to the approval and recording of a NC zone plat.

PERMITTED USES WITHIN AN NC ZONE

Only the following uses shall be permitted within an NC zone:

1) The retail sale of grocery and sundry items, including as a minimum milk, bread, eggs, soda and newspapers, as customarily found in a "convenience" store. No sale for on-premises consumption is permitted. (Sale of coffee and donuts for off-premises consumption is permitted)

2) The retail rental of audio or video tapes or discs as a secondary use to 1) above. Such secondary use shall not occupy more than 25% of the usable floor area of the building.

3) Only one building shall be located within an NC zone, and such building shall be used exclusively for the foregoing purposes.

4) Only one freestanding sign shall be permitted within an NC zone. Such sign shall have a maximum area of 10 s.f. on each of two sides. The maximum height of the sign above grade shall be 8 feet, and shall be located a minimum of 10 feet from all property lines of the parcel. The sign shall not be internally illuminated and internally illuminated lettering shall not be utilized. In addition to the one freestanding sign, one flat sign attached to the surface of the building will be permitted. Such sign shall have a maximum area of 20 s.f., shall not be internally illuminated and shall not utilize internally illuminated lettering. No other signs will be permitted in an NC zone. Such signs shall be for facility name and address identification only and

shall not contain any product or other advertising information.

PROHIBITED USES WITHIN AN NC ZONE

1) Any use or activity not expressly permitted above.
2) Outside storage or display of goods or merchandise.
3) Sale of motor fuels.
4) Portable or temporary signs.
5) On-premises video games, or equivalent, are specifically prohibited.

HOURS OF OPERATION

The retail sale of groceries and sundries shall be conducted on a regular and continuing basis for a minimum of 80 hours per week during the hours of 6 A.M. to 10 P.M. only. No operation shall be permitted during the hours of 10 P.M. to 6 A.M.

AREAS, SETBACKS AND DIMENSIONS

1) Minimum Zone (lot) Size:
(See "Size of NC Zones.", above)

2) Minimum Frontage:
The NC zone (lot) shall have a minimum of 200 feet of frontage on an approved street (at the lot line, and not at the setback line), which has been designated as an Arterial or Collector road only, as referenced in the Transportation Plan in the 1986 Derry Master Plan.

3) Minimum Setbacks:
All buildings and parking areas and all other areas which are intended or may be used for vehicular travel (except for the access/egress point) shall be set back a minimum of 50 feet from all lot lines.

4) Lot Coverage:
Not more than 25% of the lot area shall be occupied by the building, parking areas, driveway or other improvements which reduce the green space.

5) Height:
The maximum height of any point of the building or other structures within an NC zone shall not exceed 25 feet above the lowest finished grade elevation at any point adjacent to the foundation of such building or structure.

6) Floor Area:
   a) Maximum footprint/plan area of the building (including porches) shall be 2,000 square feet.
   b) Minimum footprint/plan area of the building shall be 1,200 square feet.

c) The sales floor area shall be limited to a single level only and shall not exceed 2,000 square feet.

d) The maximum perimeter of the building shall not exceed 180 square feet.

GENERAL REQUIREMENTS

The design and finish of the building and all other improvements within an NC zone shall be in conformance with that of existing residential improvements within the surrounding neighborhood, as determined by the Planning Board.

Exterior finishes of cinderblock, cement block, Fiberglas or metal shall not be permitted. Flat roofs shall not be permitted.

The building constructed in the NC zone shall be designed and constructed (including water supply and sewage disposal with capacity for at least three bedrooms) so as to facilitate future use as a single family residence in the event that the owner chooses to convert the building to a residence (and thus abandoned as an NC zone) or in the event that a "Notice of Termination of NC Zone" is issued.

Landscaped visual and acoustic buffer zones, at least 25 feet deep, shall be provided inside and immediately adjacent to all lot lines, except for street boundary lines. Buffer zones may be required along street boundary lines in the discretion of the Planning Board.

Vehicular access to and egress from an NC zone shall be by means of a single driveway with a width not exceeding 24 feet.

SECTION 14 - DEFINITIONS Effective 7/5/90

For the purpose of this ordinance, certain terms or words herein shall be interpreted as follows:

Word Definitions

The word person includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The words shall and will are mandatory; the word may is permissive.

Term Definitions

ABUTTER: Abutter means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration.

ACCESSORY USE": A building or use subordinate and customarily incidental to the main building or use on the same lot. The term "accessory building", when used in connection with agriculture, shall include all buildings customarily used for farm purposes.

AGRICULTURE: Any area of land, including structures thereon, that is used for agricultural purposes including forestry. This includes the raising of cows, horses, poultry, and other livestock; horticulture and orchards; logging of a forest, woodland, or plantation; selling of products primarily grown or raised directly on such land; and the building, altering or maintaining of wood roads, agricultural roads, skidways, landings, fences, drainage systems and farm ponds.

AVIATION: The operation of, or any function associated with, aircraft.

BANK: An establishment for the custody, loan, exchange, or issue of money for the extension of credit and for facilitating the transmission of funds, whether it is a drive-through, drive-up, or conventional walk-up and walk-in use.

BED & BREAKFAST: See definition of Tourist Home.

BUILDING: A constructed unit forming a shelter for persons, animals, or property and having a roof and being permanently located on the land. Where the context allows, the word "building" shall be construed as followed by the words "or part thereof".

BUILDING FRONT LINE: Line parallel to the front lot line transecting that point in the building face which is closest to the front lot line except for minor projections as provided for in Article III.

BUILDING HEIGHT: Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs.

CAMPGROUNDS: Recreation park area of not less than 10 acres, access to the campgrounds shall be on a State Highway suitable for camping/tenting with electricity, water, and solid waste disposal provisions and one or more service buildings all conforming to the regulations of the State of New Hampshire.

CAMPING TRAILER: A non-self-propelled structure mounted on wheels, requiring for occupancy the unfolding or erection of articulated parts, and designed for travel, recreation, and vacation use.

CARE AND TREATMENT OF ANIMALS: The building or use for veterinary establishment, riding school or kennels.

CEMETERY: A use designed for a burial ground of the dead, either public or private authorized under the laws of the State of New Hampshire.

CENTRALIZED SEWER SYSTEMS: Any disposal system designed to locate waste treatment facilities in one area of a development, to serve as the disposal system for the entire development and approved for the site by the Department of Environmental Services.

COMMERCIAL RECREATION BUILDING: Structures used as auditoriums, indoor theaters, pool halls, bowling alleys, indoor tennis courts, indoor swimming pools, health clubs or handball courts.

COMMERCIAL SERVICE: Commercial service includes barber, hairdresser, health spa, beauty parlor, shoe repair, shoe shine, laundry, laundromat, dry cleaner, photographic studio, and businesses providing similar services of a personal nature.

CONTRACTOR'S YARD: Carpenter shop, plumbing, electrical, roofing, contracting or similar service establishment.

COVERAGE: That percentage of the lot area covered by a building. Where not otherwise specified, coverage shall be limited by setback requirements.

CREMATORIUM: A use to reduce (a dead body) to ashes by the action of fire. It is a use generally associated with funeral establishments or may be a separate use designed for cremation.

DRIVE-IN RESTAURANT OR REFRESHMENT STAND: Any place or premises used for sale, dispensing or serving of food, refreshments or beverages to customers in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.

DWELLING, ONE-UNIT: A detached or free-standing residence other than a mobile home, designed for and occupied by one family only.

DWELLING, TWO-UNIT: A residential building designed for or occupied by two families living independently of each other in individual attached dwelling units.

DWELLING, MULTI-UNIT: A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING UNIT: One room, or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and

containing independent cooking, sanitary and sleeping facilities. It shall include sectional homes and modular units provided these units meet the standards of the local building code but shall not include mobile home, motel, hotel, lodging house or similar structures.

ESSENTIAL SERVICES FACILITY: Buildings, reasonably necessary for the furnishing of such services by public utility companies of such services as gas, electrical, sewer, steam, or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, and similar equipment and accessories in connection therewith.

FAMILY: An individual or two or more persons related by blood, marriage, or law.

FUNERAL ESTABLISHMENT: A facility for the preparation of the dead, for burial or cremation, of viewing of the body, and for funerals.

GROUP DAY CARE FACILITY: A group day care facility shall be taken to mean both child and adult day care unless otherwise noted for a part, but not all of a twenty-four hour day.

A. CHILD DAY CARE FACILITY: A child day care facility shall mean a day care center, a day nursery, a private nursery school or kindergarten, a child development center, a play group a Head-Start center, progressive school, or any other facility which cares for six (6) or more children under the age of 16.

   Such facilities may be privately operated or sponsored by a church, social agency, cooperative group or a community, or by a public agency other than public schools.

B. ADULT DAY CARE FACILITY: An adult day care facility shall mean a public or privately operated day care center, therapeutic program, or other facility which provides daily restorative care to adults who either live alone or with others and who need, due to aging process and/or disease progression, ongoing consistent stimulation, reinforcement, and reality orientation to continue to actively participate in activities of daily living in order to prevent progressive deterioration, reliance on others for care, or nursing home placement.

GROUP RESIDENCE: Group residence shall include home for the aged, orphanage, children's' home, rest home, extended care facility, student dormitory and similar types of group living accommodations.

HOME OCCUPATION-BUSINESS: A use of a professional or service character that has been customarily carried out in the home and conducted within the dwelling by the resident-owner thereof, which is clearly secondary to the dwelling use for living purposes and

does not change the character thereof. The care of four or fewer children not domiciled on the site for part but not all of a twenty-four day shall not be considered a home occupation as defined herein and shall comply with the requirements in Section 401.

HOSPITAL: Includes sanitarium, nursing home, convalescent home and other place for the diagnosis, treatment or care of human ailments, licensed for in-patient care by the State of New Hampshire, and its subsidiary structures located on the same lot as the primary facility, including, but not limited to: clinics, medical offices, laboratories and support buildings.

JUNK: means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

JUNKYARDS: 1. Any place of storage or deposit, whether in connection with a business or not, where two or more unregistered, or old motor vehicles, no longer intended or in condition for legal use on the highways, are held, whether for the purpose of resale or used parts, for the purpose of reclaiming for use some or all of the materials, whether metal, glass, fabric, or otherwise, or to dispose of them, or for any other purpose. The term includes any place of storage, or deposit for any purposes, of used parts or materials from motor vehicles which, taken together, include in bulk two or more vehicles.

2. An establishment or place of business which is maintained, operated, or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, and includes garbage dumps and sanitary fills, The word does not include any motor vehicles registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:127.

3. It shall not include an establishment operated by a firm or individual registered under the laws of the State of New Hampshire as a new or used motor vehicle dealer provided the establishment only has wrecked or ruined motor vehicles which are still registered and are not kept or stored for a period exceeding 160 days. Such dealer shall maintain records showing the owner of the vehicle, the number and state of vehicle registration and the date of its original entrance upon this premises.

LIGHT INDUSTRY: The assembly, manufacture, processing, or other industrial operations conducted in such a manner that all resulting cinders, dust, fumes, gas, odors, smoke, vapor and waste or emissions are effectively confined to the premises or disposed of so as to avoid any environmental pollution and conducted in such a manner that the noise level at the property line will not exceed 80 decibels and flashing and vibration will not be perceptible off-site.

LODGING HOUSE: Any dwelling (other than a hotel or motel) in which living accommodations without individual kitchen facilities are rented to three or more non-transient guests. A boarding or rooming house shall be deemed a lodging house.

LOT: A lot is a parcel of land occupied or to be occupied by only one main building and the accessory buildings or uses customarily incidental to it except as may otherwise be provided herein. A lot shall be of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required.

LOT AREA: The horizontal area of the lot lying within the lot lines, exclusive of any area in a street right-of-way.

LOT CORNER: A lot situated at the intersection of, and abutting, two streets which have an angle of intersection of not more than 135 degrees. A lot abutting on a curved street shall be deemed a corner lot if the tangents to the curve at its point of intersection with the side lot lines meet at the interior angle of not more than 135 degrees.

LOT MEASUREMENTS:

Depth of a lot means the average horizontal distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.

Width of a lot means the distance measured across the minimum setback line.

LOT OF RECORD: A lot which is part of a subdivision of record in the office of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

MAIN BUILDING OR USE: A building or use which houses or constitutes the principal activity on the premises. This shall also include principal building.

MANUFACTURED HOUSING: Any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Manufactured housing as defined in this section shall not include presite built housing as defined in RSA 674:31a.

MEMBERSHIP CLUB: Building or use catering to club members and their guests for recreational and social purposes, and not operated primarily for profit.

MOBILE HOME: See definition of Manufactured Housing.

MOTEL: A building or group of buildings which contains four or more apartments or living accommodations, for ten or more persons, with or without kitchens, and which constitutes primarily the temporary abode of persons who have their residence elsewhere. This shall include hotels.

MOTOR HOME: A portable, temporary dwelling to be used for travel, recreation and vacation, and constructed as an integral part of a self-propelled vehicle.

NON-COMPLYING BUILDING: A non-complying building means a structure or part thereof not in compliance with the zoning ordinance covering building bulk, dimensions, height, area, yards, or density laws, ordinances and regulations prior to the enactment of this zoning ordinance.

NON-CONFORMING USE: A use which lawfully occupied a building or land at the effective date of this ordinance or amendments thereto, and that does not conform to the use regulations of the district in which it is located.

OFFICE: Place where the business of a commercial, industrial, service or professional organization is transacted.

OFF-LOT SEWER: The provision that sewer shall be by municipal disposal only.

OFF-LOT WATER: Provision of water from a source not located on the same lot as the building for which the water is provided. When the source is not municipal water, the adequacy of the source shall be determined by review of the Planning Board, the Town Engineer and appropriate State authorities.

ON-LOT SEWER: Sewage disposal by means located on the same site as the building for which the water is provided.

OUTDOOR STORAGE: Storage not in a structure, provided that any storage material other than new equipment, new building material or other new products displayed for sale, is fenced or screened.

PARKING FACILITY: A use dedicated to the outdoor storage of registered motor vehicles, which may be at ground level, below ground, and/or above ground. Such use shall be devoted to the parking of passenger cars, and shall specifically exclude unregistered motor vehicles and trucks registered over one ton.

PARKING SPACES, OFF-STREET: For the purposes of these regulations, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for 3 or

more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked without moving another.

PLANNED RESIDENTIAL DEVELOPMENT: A purely residential subdivision of a tract where, instead of subdividing the entire tract into house lots of conventional size, a similar number of single family dwelling units may be clustered on lots of reduced dimensions. The remaining land in the tract which has not been built upon shall be reserved for open space.

PLANNED UNIT DEVELOPMENT: A tract of land, either in single ownership or controlled by an individual, and capable of being used for one or more residential, commercial, industrial or recreational uses with certain facilities in common, and which have been designed as an integrated unit.

PRESITE BUILT HOUSING: Means any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standard and local building codes, for installation, or assembly and installation, on the building site. For the purposes of this subdivision, presite built housing shall not include manufactured housing, as defined in RSA 674:31.

PRODUCE STAND: Seasonal sale of flowers, garden supplies, or agricultural produce designed to serve customers principally traveling by automobile.

PUBLIC USE: Uses by agencies and departments of local, county, state and federal governments, including:

Cemetery: May include burial ground, mausoleum, cemetery vaults, and necessary maintenance structures.

Education: Includes such functions as elementary, middle, junior high and high schools, college, vocational or technical school, kindergarten, and similar educational institutions.

Institution: Public facilities primarily engaged in public services such as health and research.

Office: Includes such functions as office, laboratory, library, post office, clinic, assembly and court.

Public Safety: Includes such functions as fire, police, rescue, and ambulance services.

Public Water, Public Sewer Water supply and sewage disposal systems approved by the Town for municipal operation.

Recreation: Includes such functions as recreation center, senior citizens center, gymnasium, auditorium, and outdoor recreation facilities such as play fields, tennis courts and golf courses.

Service: Includes such functions as garage, warehouse, vehicular repairs, outside storage for vehicles and supplies, and similar uses.

Waste Treatment: Includes areas or structures for disposal of sewage, solid waste and garbage under the control of a governmental unit, including incinerators, sewage treatment plants, and similar methods of disposal.

Waste Water Treatment: A use devoted to the clearing of good waste, either public or private in association with required water purification standards. Such use shall include all necessary functions of wastewater treatment with the exception of storage of sludge and other waste materials.

PUBLISHING: Publishing shall also include printing and related types of operations.

RECREATIONAL FACILITY, OUTDOOR: Outdoor recreational activities, including such facilities as outdoor tennis courts, swimming pools, golf courses, play fields, and similar uses. No buildings shall be allowed except for the necessary related uses such as rest rooms and maintenance facilities.

REMOVAL OF NATURAL MATERIAL: The removal of natural material is the removal of loam, sand, gravel, stone or other fill material for sale in commercial quantities, or for the use in another location.

RESEARCH LAB: A use that provides for experimental study and is not of manufacturing nature and at least 50% of the floor space shall be used for office space and no activities shall result in heavy trucking.

RESTAURANT: Restaurant shall include diner, cafe and cafeteria, and shall not include drive-in restaurants. It shall be an eating establishment which is primarily designed for its patrons to eat at tables, booths or a counter. Take-out refreshments are only incidental to the main purpose of the establishment.

RETAIL STORE: Includes shop and store for the sale of retail goods and department store; and shall exclude any drive-in service, free-standing retail stand, gasoline service and motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service and commercial service.

SERVICE AREA: The area adjacent to a building entrance, usually in the rear, through which supplies are received and waste materials are moved.

SIGNS: Any device having a display surface on one or both sides to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulation herein:

A. Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises.
B. Flags and insignia of any government except when displayed in connection with commercial promotion.
C. Legal notices, identification, informational, or directional signs erected as required by governmental bodies.
D. Signs directing and guiding traffic and parking on private property, but bearing no advertising.

SIGNS SURFACE AREA: The surface of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.

SPECIAL EXCEPTION: A use of a building or lot which may be permitted under this ordinance only upon application to the Board of Adjustment and subject to the approval of the Board, and only in cases where the words "Special Exception" in this ordinance pertain.

STREET LINE: Right-of-way line of a street as dedicated by subdivision plat or a deed of record. Where the width of the street is not established, the street line shall be considered to be twenty-five feet from the center line of the street pavement, or as designated in the Master Plan.

STREET, PUBLIC: A public right-of-way which the Town or State has the duty to maintain regularly or a right-of-way shown on a subdivision plat approved by the Planning Board, recorded with the County Registry of Deeds, and constructed to Town specifications, which provides the principal means of access to abutting property.

STRUCTURE: Anything constructed or erected having a fixed location on the ground, or attached to something having a fixed location on the ground. Structures include, but are not limited to, buildings, swimming pools, mobile homes, billboards, and poster panels. It shall not include minor installations such as fences less than three and a half (3 1/2') feet high, agricultural and safety fences, mail boxes, and flag poles.

TOURIST HOME: Any owner occupied dwelling (other than a hotel or motel) in which living accommodations without individual kitchen facilities are rented to ten or fewer transient guests, none of whom shall stay for more than 14 days in any one calendar year.

TRAVEL TRAILER: A vehicular, portable, non-self-propelled structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, having a body width not exceeding eight (8´) feet, and a body length not exceeding thirty-two (32´) feet.

TRUCK TERMINAL: A facility for transfer of merchandise, and the repair, maintenance, and and servicing of tractor trucks and trailers used for the transportation of such merchandise.

USE, PERMITTED: Use specifically allowed in a zoning district excluding illegal uses and non-conforming uses.

VARIANCE: Such departure from the terms of this ordinance as the Board of Adjustment, upon appeal in specific cases, is empowered to authorize only under applicable statutes of the State of New Hampshire.

VEHICULAR SALES OR REPAIR FACILITY: Enclosed establishment for the display, sale and repair of new and used motor vehicles, trailers, motorcycles, mobile homes and boats. No retail sale of gasoline or retail sale of oil permitted except as incidental to the repair facility. Outdoor display of new and used equipment may be permitted.

VEHICULAR SERVICE STATION: Any area of land, including structures thereon, that is used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used for polishing, greasing, washing, spraying, dry cleaning, mechanical repairs, or otherwise cleaning or servicing such motor vehicles. A service station is not a vehicular sales or repair facility as defined herein.

WAREHOUSE: A fully enclosed building used for bulk storage of goods and merchandise including bulk sales outlets and self storage units.

YARD: That portion of a lot not occupied by a building or structure. Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

YARD, FRONT/SETBACK: Yard between the front lot line and the front of a building extended to the side lot lines of the lot. The depth of the front yard shall be measured from the street line to the front line of the building.

YARD, REAR: Yard between the rear lot line and the rear line of a building extended to the side lot lines of the lot. The depth of

the rear yard shall be measured from the rear lot line to the rear line of the main building.

YARD SALE: The sale of excess items by a family from its residence to customers coming to the residence to view and purchase the items. It shall include garage, lawn attic, tag and porch sale, and similar expressions intending to convey such type of sales.

YARD, SIDE: Yard between the principal building or accessory building and a side lot line, and extending through from the front yard to the rear yard.

ARTICLE III - BUILDING PROVISIONS

Section 2 - No building, structure or mobile home shall be erected or placed on a lot without first obtaining a permit from the Town Building Inspector. Adequate plans for the proposed building or alterations shall be submitted. No addition shall be built that will bring any part of the addition closer to the lot line than required for new construction. No mobile home shall be located on a lot unless the lot is located on a road which is accessible to emergency vehicles in all seasons. **(Amended & Effective 8/11/89)**

Section 3 - The Code Enforcement Officer shall base his approval or rejection of a building permit upon the plans submitted and the conformance of the proposed structure to the zoning district it will be in, as well as the following: **(Effective 3/7/91)**

a. All structures must comply with the requirements of the BOCA National Building Code as amended by the Town of Derry.

b. Upon the completion of any footing, the owner of the property upon which the footing is located, shall obtain from a licensed land surveyor a certified plot plan, or if the bounds as shown are on an approved plan recorded at the registry of deeds, said certification could be performed by a qualified licensed engineer. The plot plan shall delineate the location of the pertinent boundaries, all applicable setback limits and the footing location.
The Code Enforcement Office shall not authorize further construction until the certified plot plan has been submitted and reviewed.
The requirement may be waived by the Code Enforcement Officer in the case of accessory structures and additions to existing buildings.

c. All dwellings and buildings in public uses, shall be equipped with sewage disposal systems. Septic systems shall be approved by the State of New Hampshire, Department of Environmental Services, (NH-DES) Subsurface Systems Bureau.

Sewer connections, approved and inspected by the Town of Derry Wastewater Department.

ARTICLE IV - RETAIL BUSINESS ZONE

Section 1 - No use shall be permitted that is injurious, noxious or offensive to the neighborhood by reason of emission of odor, fumes, dust, smoke, vibration, noise, or other cause.

Section 2 - The following types of uses shall be permitted:

a. One residential unit, rooming houses, hotels, and inns. No other residential structures shall be permitted, except as provided in Section 1.110 of this ordinance. **(This paragraph effective 10-8-87)**

b. All stores intended for the retail sale of such commodities as: Antiques, art goods, automobiles, motorcycles and their accessories; the sale of gasoline, bicycles and their accessories; bakery products; pets such as dogs, cats and birds; books, stationary and greeting cards; boots and shoes; cameras and photographic supplies; candy and confections; chemical supplies; cigars, cigarettes, tobacco and smoking supplies; miscellaneous food products; dry goods, drugs and medicines; clothing and wearing apparel; flowers and plants; kitchenware; crockery; dairy products; novelties and variety goods; electrical equipment; appliances and supplies; feed, grain and seeds; meat and fish; fruit and vegetables; furniture and household furnishings; miscellaneous grocery items; hardware; heating supplies and appliances; ice cream and soft drinks; jewelry, watches and clocks; leather, leather goods and luggage; music and musical instruments; newspapers and magazines; office equipment and supplies; optical goods; paint, wallpaper, and painters and decorators supplies; pharmaceutical supplies including drugs and medicines; plumbing fixtures and supplies; radio and phonographs and their supplies; sporting goods.

c. Offices or stores for the handling of sales and/or service such as: Coal, wood or heating materials not stored on the premises; sales of lumber, or building products not stored on the premises; electrical power, water or illuminating gas; banks and other financial institutions; restaurants, cafes, cafeterias, lunch rooms and the retail sale of any goods normally associated with such establishments; barber shops and beauty parlors; boot and shoe repair; bus depots or the sale of travel accommodations; catering; clinic, public or private educational services; garages for storage, sales, repairs and maintenance of motorcycles, automobiles, trucks, and tractors; express offices; hat cleaning home occupations; book lending; moving company offices; moving picture

houses or other type of theater; day care for children; real estate and insurance offices; sign painting.

d. Offices for the handling of administrative functions.

e. The manufacture of processing of the following goods and products: artificial flowers; clothing or wearing apparel and their accessories, except boots and shoes; the repair of household furnishings; bakeries; printing and book publishing and binding; engraving, grinding and repair of optical products; chemical manufacturing associated with retail sale of drugs and medicines; dental and orthopedic appliances and supplies; packaging of feed and grain and seeds when accessory to the retail sales; repair of watches and clocks and other small articles and appliances.

f. Miscellaneous uses such as athletic clubs or gymnasiums, billiard parlors and pool halls; bowling alleys; radio broadcasting and receiving stations; dance halls or auditoriums used primarily for entertainment or recreation; exhibition halls; skating rinks; swimming pools.

g. Any public use or use by a semi-public agency whose activities are primarily non-profit in nature.

h. The following standards shall be allowed only within the Downtown Business District, unless otherwise specifically allowed elsewhere in this ordinance:
   1. All uses allowed in Article IV, Section 2, a-g.
   2. Density: 18 Multi-family units per acre limited to new construction except as provided for in #4.
   3. A height limitation for occupied structures - 60'.
   4. No conversion of existing structure to 18 unit per acre, except by Special Exception of the Zoning Board of Adjustment and with the approval of the Planning Board's Site Review.
   5. All new construction, conversions, change of use, or substantial modification of existing structures affecting the sites upon which these uses are located, shall be subject to Site Plan Review and approval. (Adopted 11-6-84)

ARTICLE V - GENERAL RESIDENCE ZONE

Section 1 - No use shall be permitted that is injurious, noxious, or offensive to the neighborhood by reason of emission of odor, fumes, dust, smoke, vibration, noise or other causes.

Section 2 - The Building Inspector shall ascertain, before issuing a permit for the construction or alteration of any building, whether or not the intended use of such structure will

in any manner be detrimental to the neighborhood in which it is to be located. Should any question exist in the opinion of the Building Inspector, regarding the effect of such intended use of the neighborhood, he shall before issuing a permit, submit the case to the Zoning Board of Adjustment for review. The Zoning Board of Adjustment shall hold hearings to determine the reaction of property owners in the neighborhood and grant or refuse a permit on the basis of their findings.

Section 3 - Nothing in Article V shall prevent land from being used or structures altered, or used for production or sale of farm produce by occupants of such land, unless such use is injurious, noxious or offensive to the neighborhood.

Section 4 - CAMPGROUNDS

The term Campground, as used herein shall mean campground as defined by the State of New Hampshire. All campgrounds shall conform to the regulations of the State of New Hampshire. Nothing herein shall prevent land from being utilized, maintained or operated as a recreational campground, provided that the campground meets the following requirements:

A. All campgrounds shall conform to the following standards:

1. All campgrounds shall be permitted to operate only from May 1, through October 31.
2. Campsites and facilities shall be no closer than 1,000 feet from an existing residence.
3. Access to the campgrounds shall be from a State highway.
4. Before any campground can be constructed, entrance and exit roadways shall be established with the following minimum characteristics:
   a. They shall be a minimum of 25 feet wide.
   b. They shall be no closer than 250 feet from any existing residence or centerline of any existing residential curb cut whichever is closer.
5. Before any campground can be constructed, a buffer zone of 500 feet from the lot lines for the entire perimeter of the parcel shall be maintained in its natural state. In the absence of natural screening, additional buffer zone requirements may be imposed by the Planning Board.
6. Campground sign/s shall conform to a maximum size of 10 square feet and be limited to one sign for each entrance.
7. Site Plan Review and approval by the Planning Board shall be required.

B. A camping space shall:

1. Contain a minimum land area of 2,000 square feet, not including roads and access drives.
2. Have as part of the 2,000 square feet area a minimum of

200 square feet for off-street parking.

3. Be at least 40 feet wide.

C. A service building or buildings for toilets and shower facilities shall be provided. No camping space shall be more than 500 feet from a service building.

D. Prior to the granting of an Occupancy Permit, written approval of the State Board of Health shall be furnished certifying that all facilities for water supply, toilets, sewage disposal, and solid waste disposal comply with the State Board's requirements.

E. Permitted accessory buildings in a campground shall be limited to the following:

1. An office for the manager and staff of the campground and an office providing adequate first aid facilities, both of which may be in a dwelling or service building.

2. A service building, not to exceed 1,500 square feet of gross floor space, which may contain equipment and supplies, recreation rooms, and a shop for convenience goods primarily for the occupants of the campground, provided that no advertising device is visible from a street or from adjacent lots.

3. A service building or buildings for toilets and shower facilities.

4. Service buildings to accommodate bathers at beach or pool sites.

5. Additional requirements may be imposed by the Planning Board for any other buildings or structures incidental to the recreational aspects of the campground including commercial recreational facilities as defined in this ordinance.

ARTICLE VI - SIGNS AND BILLBOARDS

The following provision shall apply to exterior signs and billboards in all districts where permitted. Existing signs that were lawful at the time of enactment or amendment of this ordinance shall be allowed to continue to be used. However, if and when such signs are replaced, the new sign or signs shall conform to the provisions of this section.

Section 1 - Size, Location and Illumination - General

1. No sign or billboard shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination or wording, the sign or billboard may obstruct the view of

or be confused with any authorized traffic sign, signal or device or otherwise constitute a hazard to pedestrian or vehicular traffic.

2. Flashing, moving or animated signs and billboards are prohibited, except for signs informing the public of time, temperature and weather, and barber poles.
3. No sign or billboard shall be more than 40 feet above ground level, except when attached to a building.
4. No sign attached to a building shall project above the roof line.
5. Public traffic and directional signs, and signs designating public activities shall be permitted in all districts.
6. Portable signs, portable electric signs and temporary signs shall not be allowed in any district. However, such signs shall be permitted for special events under the following conditions:
   a. Permits for special events shall not exceed 30 days.
   b. No more than two (2) permits for special events shall be issued to the same organization in one (1) calendar year.

   All portable signs, portable electric signs and temporary signs existing at the time of passage of this ordinance shall be removed within sixty (60) days.

   (Item #6-Effective 3/7/91)

Section II - Signs in Residential Districts

Signs or other advertising devices in Residential Districts shall be permitted as follows:

1. Name and address signs, not to exceed 2 square feet in area.
2. One sign not more than 3 square feet in area providing information about an approved home occupation business.
3. One sign identifying a multi-family project provided it is not more than 20 square feet in area.
4. One sign in connection with a lawful non-conforming use, provided it is not more than 20 square feet in area.
5. One "For Sale" or "For Rent" sign not more than 6 square feet in area.
6. Subdivision signs advertising the sale of residential lots not more than 10 square feet in area.
7. No sign shall project beyond a lot line. Signs larger than 6 square feet shall be set back at least 10 feet from the front lot line or public way.

Section III - Signs in Business and Industrial Districts

Signs or other advertising devices in Business or Industrial Districts shall be permitted as follows:

1. Signs as permitted in the Residential Districts.
2. A maximum of three signs for a business or industrial establishment whether attached to a building or free standing. Signs not mounted on buildings or which are

mounted perpendicular to a building shall be 10 feet from the lot line or public way.

3. For commercial use, the aggregate area of all signs shall not exceed 2 square feet for each linear foot of street frontage. This provision does not apply to Shopping Malls.
4. For industrial uses in solely industrial zones, the aggregate area of all signs shall not exceed 4 square feet for each linear foot of street frontage. For industrial uses in multi-use zones, the signs shall comply to that for commercial uses and shall be applied only to those buildings or building actually used for industrial purpose.
5. Temporary signs such as notices of special sales, etc. shall be permitted.
6. No sign shall be greater than 100 square feet in size in a commercial district, or greater 200 square feet in size in an industrial district.
7. Whether attached to a building or free-standing, no part of any sign or advertising device shall be closer than 10 feet to a lot line or public way. However, in the Downtown Business District there shall be no setback requirement, provided that a free-standing sign or a sign mounted to a building which projects in a perpendicular fashion shall not be within 5 feet of a public way.
8. Existing free-standing signs shall remain non-conforming uses until such time as:
   a. The business associated with such sign shall not be open to the public for a period of one year, or
   b. The specified business for which the sign exists as of the date adoption of this amendment should change,
   c. The sign should be more than 50% destroyed by fire, accident, and/or natural disaster, then; all free standing signs shall be brought into compliance with this ordinance.
9. All signs erected in the Town of Derry shall comply with Article 29 - of the 1990 BOCA National Building Code as amended by the Town of Derry. **Effective 3/7/91**

Section IV - Special Exceptions

Special Exceptions to these provisions may be granted by the Zoning Board of Adjustment.

ARTICLE VII - ENFORCEMENT

Section 1 - The Mayor and Town Council shall appoint for a term of one year a Building Inspector, who, by his training and experience is qualified to administer this ordinance. An application fee shall be charged for each permit, other than those for municipal structures, as allowed by the 1990 BOCA Building Code and amended by the Town of Derry.

Section 2 - The Building Inspector shall be the Administrator Officer of this ordinance.

Section 3 - Any person before commencing work on the erection or alteration of any building or structure, if said alteration affects more than 30 percent of the existing floor area, must obtain a permit duly granted for such erection or alteration by the Building Inspector. Before a permit shall be issued by the Building Inspector, he shall determine whether the proposed construction or alteration conforms to all conditions of this ordinance and a specific blueprint or other record of the approved plan shall be filed before permit is granted. The Building Inspector shall make known his decision within ten days from the date he received application and he shall make inspections of all buildings in a process of construction and report any violations to the Board of Selectmen. Such permits shall be valid for one year from the date of issuance. Said permits may be renewed for a period of one year, provided that construction under the original permit was commenced during the first year. On new building, "construction commenced" shall mean the completion at least of the foundation. The renewal permit fee shall be $2.00. After a foundation is constructed, buildings must be completed within one year unless the time is extended by the Building Inspector for good cause. All permits issued prior to the enactment of this ordinance shall expire one year from the date of enactment of this amendment unless renewed under the above provision.

Section 4 - No permit shall be issued for construction or alteration unless the proposed structure will present a reasonable appearance and will be in keeping with the neighborhood and unless the building is to be finished in the exterior in a permanent manner and is to be suitably painted on the outside whenever the same is of wood or a material customarily painted. This is intended to eliminate the erection of structures obviously out of place for the neighborhood where they are located, and which may be detrimental to property values and neighborhood character. When an objection, on account of appearance of a proposed structure as above indicated, is raised by a majority of the families residing or owning property within a radius of 500 feet of the property in question the Zoning Board of Adjustment shall hold a public hearing to receive evidence on both sides and shall have the authority to decide whether the permit shall be issued or not.

Section 5 - Upon any well founded information that the town zoning ordinance, or the town building code, or any provision or specification of any application, plat, or plan approved by, or any requirement or condition of a permit or decision issued by the Code Enforcement Officer, building inspector or the Planning Board, or the Board of Adjustment is being violated, the building inspector shall, on his own initiative, take immediate steps to enforce the provisions of the Zoning Ordinance, or the building

code, or the provision or specification of the application, plat or plan approved by or the requirement or condition of a permit or decision issued by, the building inspector, or the Land Use Board by seeking injunction in the superior court or any other appropriate legal action. **(Effective 3/7/91)**

Section 6 - Whoever violates any of the provisions of the town zoning ordinance, or the town building code, or any provision or specification of any application, plat or plan approved by, or any requirement or condition of a permit or decision issued by the Code Enforcement Officer, building inspector or Land Use Board, shall be punishable upon conviction by a fine not exceeding $100 per day for each violation. **(Effective 3/7/91)**

ARTICLE VIII - ZONING BOARD OF ADJUSTMENT

Section 1 - The Mayor and Town Council shall appoint a Board of Adjustment, which board pursuant to the regulations and restrictions set forth in this ordinance, may in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of this ordinance in harmony with general or specific rules as put forth in this ordinance.

Section 2 - The Board of Adjustment shall consist of five members. When the Board is first organized, one member shall be appointed to serve one year, one for two years, one for three years, one for four years, and one for five years and thereafter the appointing authority shall annually appoint one member for a term of five years. Said members shall be removable by the appointing authority upon written charges, and after a public hearing. Vacancies shall be filled for the unexpired term.

Section 3 - The Board shall adopt rules in accordance with the provisions of the ordinances. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman, or in his absence the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, and if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

Section 4 - Appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as prescribed by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board, a notice of appeal specifying the grounds thereof.

The officer from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

Section 5 - An appeal stays all proceedings under the action appealed from, unless the officer from whom the appeal was taken certified to the Board of Adjustment after notice of appeal shall have been filed with him, that by reason of facts stated in the certificate of stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by the Superior Court on notice to the officer from whom the appeal is taken and case shown.

Section 6 - The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give the public notice thereof, as well as notice to parties in interest, and decide the same within a reasonable time. Upon hearing any party may appear in person or by agent or attorney.

Section 7 - The Board of Adjustment shall have the following powers:

a. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement hereof or of any ordinance adopted pursuant thereto.
b. To hear and decide special exceptions to the terms of the ordinance upon which such Board is required to pass under such ordinance.
c. To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.
d. In exercising the above-mentioned powers such Board may, in conformity with the provision hereof, reserve or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and to make such order or decision as sought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
e. The concurring vote of three members of the Board shall be necessary to reverse any action of such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under such ordinance.

Section 8 - No member of the Board of Adjustment shall sit upon the hearing of any question which the Board is to decide in a judicial capacity who would be disqualified from any cause, except exemption from service and knowledge of the facts involved

gained in the performance of his official duties, to act as a juror upon the trial of the same matter in any action of law. If a member shall be disqualified or unable to act in a particular case pending before the Board, the appointing authority, upon application of the Board shall appoint a member to act in his place upon said case.

Section 9 - Any person aggrieved by any decision of the Board of Adjustment, or any decision of the legislative body of such municipality in regard to its plan of zoning, or any taxpayer, or any officer, department, board, or bureau of the municipality, may apply to the Superior Court within 30 days after the action complained of has been recorded, by sworn petition, setting forth that such decision is illegal or unreasonable, in whole or in part, specifying the ground which the same is claimed to be illegal or unreasonable.

Section 10 - The Court shall direct the records in the matter appealed from to be laid before it, hear the evidence and make such order approving, modifying, or setting aside the decision appealed from as justice may require, and may make a new order as a substitute for the order of the Board. The filing of the petition shall not stay proceedings upon the decision appealed from but the court may, on application, notice the Board and on cause shown, grant a restraining order.

Section 11 - An order of the Court to send up the record may be complied with by filing either the original papers or duly certified copies thereof, or of such portions thereof as the order may specify, together with a certified statement of such other facts as show the grounds of the action appealed from.

Section 12 - The Court may take evidence or appoint a referee to take such evidence as it may direct and report the same with his findings of fact and conclusion of law.

Section 13 - Cost shall not be allowed against the Board unless it shall appear to the Court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

Section 14 - All proceedings under this subdivision shall be entitled to a speedy hearing.

ARTICLE IX - CONFLICTING PROVISIONS

Section 1 - Whenever the regulations made under the authority hereof differ from those prescribed by any statute, ordinance or other regulation, that provision which imposes the greater fee, restriction or higher standard shall govern.

ARTICLE X - AMENDMENT

Section 1 - The regulations, restrictions and boundaries as set forth in this ordinance, may from time to time be amended or repealed. In case of a protest against such change, signed by the owners of Twenty (20%) percent either of the area of the lots included in such proposed change, or those immediately adjacent in the rear thereof, extending One Hundred (100') feet from the street frontage of such opposite lots, such amendments shall not become effective except by favorable vote of two-thirds of the Town meeting.

The Derry Conservation Commission has designated, mapped, documented and recommended that the Town of Derry establish certain wetlands as "prime wetlands" in accordance with RSA 483-A:7. Such wetlands are hereinafter described:

DESIGNATION OF PRIME WETLANDS

Prime Wetlands: The following wetlands which are displayed on maps on file at the Derry Planning Office are hereby designated prime wetlands:

Wetland Number	Location	Map Number
A/1	N of Hood Pond, off Franklin Street	122
A/6	W of By-Pass 28, E of Scobie Pd Rd/Shields Brook	134
A/9	E of By-Pass 28, S of English Range Road	140
A/11	Abuts Eleanor Avenue, E of By-Pass 28	150
A/15	E of Pingree Hill Road, Auburn Line	151
B/6	SW intersection Adams Pond & Hampstead Roads	130
B/7	SW intersection Cross and Adams Pond Roads	136
B/8	SE of Worthley Road	142
B/9	N of intersection of Beaver Lake & N Shore Roads	142
B/12	N of 012; W of English Range Road	141
B/15	E of Back Chester Road, S of Chester Line	149
B/16	W of Back Chester Road, E of Pioneer Circle	149
C/4	S of Hampstead Road, E of Oleson Road	132
C/7	W of Damren Road and N of Hampstead Road	132, 138
C/9	N of Walnut Hill between Damren & Adams Pd Roads	143, 137
C/10	N of Walnut Hill Road, E of Partridge Lane	110, 137
C/3	Between Gulf and Island Pond Roads	106
D/5	Feeds into Ballard Pond	110
D/6	Ballard Marsh	110, 111 119, 120
D/7	Island Pond Road S of Drew Road	120
D/8A	Drew Brook; crossed by Drew Road	121, 127
D/8B	Drew Brook; Drew Road	121
D/14	Leavitt Brook, RR bed, Jackman Road	126
E/1	Windham Line, W of Frost Road	102
E/8	Windham Road	108

F/6	NE of Beacon Hill Road on I 93	101,102,108
F/7	E of Fordway Ext. & S of Bowers Road	107, 108
F/11	Along Berry Road S of Claire Avenue	114
F/13	N of Pierce Avenue and along the Brook	123, 117

Effective May 28, 1987

NATURAL RESOURCES ZONING Effective 2-4-88

ARTICLE XI - WATER RESOURCES CONSERVATION ZONE-General Provisions

Section 1 - AUTHORITY AND PURPOSE

By the authority granted in N.H. RSA 674:16-17 and 674:20-21, and in the interest of public health, safety and general welfare, the Derry Water Resources Conservation Zone is hereby established to regulate the uses of lands subject to standing water, flooding, or extended periods of high water table:

a. In order to control the development of structures and land uses within the zone which would contribute to the pollution of surface and ground water.
b. In order to prevent the destruction of wetlands which provide flood protection, ground water recharge, pollution abatement, and the augmentation of stream flow during dry periods, and which are important for such other reasons as those cited in RSA 483-A:1-b.
c. In order to prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities which arise because of unwise use of water resources.
d. In order to encourage those uses that can be appropriately and safely located in the water resources zone.
e. In order to preserve and enhance those aesthetic values associated with the water resources zone of this Town.
f. In order to protect wildlife habitats and maintain ecological balances.
g. In order to preserve and enhance that wildlife associated with the water resources zone.

Section 2 - WETLAND CONSERVATION DISTRICT

PURPOSE

In the interest of public health, convenience, safety and welfare, the regulations of this district are intended to guide the use of areas of land with periods of high water tables and/or permanent standing water. The specific intent of this district is:

a. To prevent the development of structures or other land uses on naturally occurring wetlands which would contribute to pollution of surface and ground water.

b. To prevent the alteration of natural wetlands which provide flood protection, recharge of ground water supply or augmentation of stream flow during dry periods.
c. To prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities which could arise because of inharmonious use of wetlands.
d. To encourage those uses that can be appropriately and safely located in wetland areas.
e. To create an undisturbed and natural buffer to the Prime Wetlands.
f. To protect unique and unusual natural areas.
g. To protect wildlife habitats and maintain ecological balances.

Section 5 - DEFINITIONS

A. DISTRICT BOUNDARIES

1. Establishment of a District. - The limits of the Wetlands Conservation District are hereby determined to be the following:
a. All areas of very poorly drained soils.
b. Areas of poorly drained soils, 2,000 sq. ft. or more in size, and that exhibit a predominance of 50% or more wetland vegetation.
c. Areas of any wetland of any size if contiguous to surface waters such as lakes, pond and streams.
d. Areas designated as bogs regardless of any size.

B. PRIME WETLANDS shall be defined as those areas designated Prime Wetlands within the scope of RSA 483-A, and N.H. Code of Administrative Rules WT700. These wetlands are described in the Derry Prime Wetlands Report dated November 11, 1986. The topographic definition of each prime wetland is included in separate maps correlated to the report. Both the aforementioned maps and report are incorporated in this ordinance by reference.

C. PRIME WETLANDS BUFFER ZONE shall be defined as that area extending One Hundred Fifty (150') feet beyond the boundary of each prime wetland as described in Definition "B" above.

D. POORLY DRAINED SOILS shall be defined as soils with a moderately high water table as described in the report entitled: Soils Information for Resource Planning for the Town of Derry, dated March, 1980, or as further defined by "High Intensity Soils Maps for N.H." on file with the Rockingham County Conservation District.

E. Very poorly drained soils shall be defined as soils with a permanent high water table as described in the report entitles: Soils Information for Resource Planning for the Town of Derry,

dated March ,1980, or as further define by "High Intensity Soils Maps for N.H." on file with the Rockingham County Conservation District.

F. WETLANDS are areas that are inundated or saturated by surface of ground water at a frequency and duration sufficient to support and that under normal conditions do support a prevalence of vegetation typically adapted for life in saturated soil conditions. They include, but are not limited to, swamps, bogs, marshes, ponds, lakes as well as soils that are defined as poorly or very poorly drained.

G. SWAMPS contain predominantly woody vegetation (shrubs and trees) and range in wetness from occasionally flooded to standing water most of the year; or as further defined by the N.H. Wetlands Board.

H. BOGS are highly acidic wetlands that have usually developed in undrained glacial depressions and are generally underlaid by thick layers of saturated organic soils call peat; or as further defined by the N.H. Wetlands Board.

I. MARSHES (FRESHWATER are characterized by herbaceous (soft-stemmed) vegetation, or as further defined by the N.H. Wetlands Board.

J. HIGH INTENSITY SOIL MAPS FOR NEW HAMPSHIRE - The most recent document prepared by the Society of Soil Scientists of Northern New England detailing the standard for making high intensity soils maps. On file with the Rockingham County Conservation District.

K. QUALIFIED SOIL SCIENTIST - A person qualified in soil classification and mapping who is recommended or approved by the New Hampshire State Conservation Committee.

Section 6 - INCORRECTLY DESIGNATED ZONES

When a boundary of the Wetland Conservation District is disputed, or in the event that an area is incorrectly designated as being poorly drained or very poorly drained soils on the "U.S. Department of Agriculture, Soil Conservation Service, Town of Derry, Rockingham County, New Hampshire, Soil Survey, March 1980, map; the Planning Board and/or the Conservation Commission, at the applicants' expense may engage a professional biologist and/or soils scientist qualified in field analysis to determine the precise location of the Wetland Conservation District boundaries in the properties affected. A report of their findings shall be submitted to the Planning Board and shall include, but not be limited to, a revised soils map of the area in question prepared by a qualified soils scientist, along with a written report.

The Planning Board shall adjust the boundary of this district, if necessary, based on the evidence provided as set forth above. If the evidence indicates that the boundary or area in question has been incorrectly designated, the restrictions contained in this Section shall not apply. Conversely, in the event that an area has poorly drained or very poorly drained soils within the meaning of the aforementioned definitions, then the restrictions contained in this section shall apply. The Planning Board shall reserve the right to withhold action on any plat pending the results of an on-site inspection by the Board or its appointed agent.

Section 7 - REGULATIONS

Section 7.1 - PRIME WETLANDS AND PRIME WETLANDS BUFFER ZONES

A. Permitted Uses: Permitted uses in areas designated as prime wetlands and/or prime wetlands buffer zones are as follows:
   1. Wildlife habitat development and management.
   2. Conservation areas and nature trails.
   3. Cultivation and harvesting of crops according to recognized soil conservation practices including the protection of the prime wetlands from pollution caused by fertilizers, pesticide, and herbicides used in such cultivation.

B. Conditional Uses: A conditional Use Permit may be granted by the Planning Board (RSA 674:21 II) for the following purposes:
   1. Forestry and tree farming within the buffer zone using best management practices in order to protect prime wetlands from damage, to prevent sedimentation, and to prevent destruction of wildlife habitats, provided that any forestry and/or tree farming activities shall first be reviewed and approved by the Conservation Commission. Final approval shall be given by the Planning Board.

   2. The construction of fences, footbridges, catwalks, and wharves only, provided:

      1. said structures are constructed on posts or pilings so as to permit the unobstructed flow of water;
      2. the natural contour of the prime wetland is preserved;
      3. the Conservation Commission has first reviewed and approved the proposed construction; and
      4. the Planning Board has received Conservation Commission approval in writing and has reviewed the proposed construction.

Prior to the granting of a Conditional Use Permit under this section, the applicant shall agree to submit a performance security to the Planning Board. The Security shall be submitted and approved prior to issuance of any permit authorizing

construction. The Security shall be submitted in a forma and amount, with surety and conditions satisfactory to the Conservation Commission and approved by the Planning Board, to ensure the construction has been carried out in accordance with the approved design.

The Planning Board, with the concurrence of the Conservation Commission, may require the applicant to submit an environmental impact assessment when necessary to evaluate an application made under this section. The cost of this assessment shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the costs of other special investigative studies and for the review of documents required by particular applications.

C. Special Exception

The hearing for the special exception shall require a joint meeting of the Zoning Board of Adjustment, Planning Board and the Conservation Commission, provided there is a significant and substantial impact to the productive use of the land defined as landlocked or unbuildable lots caused by the creation of the Prime Buffer Zones.

Upon application to the Board of Adjustment, a special exception shall be granted for uses in the outermost Seventy-Five (75') feet of the Prime Wetland buffer zones provided that all of the following conditions are found to exist:

1. The proposed special exception is essential to the productive use of land not within the Prime Wetland Buffer Zone.
2. Design and construction methods will be such as to minimize detrimental impact upon the Prime Wetland, the Seventy-Five (75') feet buffer nearest the Prime Wetland, and the site will be restored as nearly as possible to its original condition.
3. Economic advantage alone is not reason for the proposed construction.
4. The use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot which are outside the Prime Wetland Buffer Zone.
5. The design and construction of the proposed use will, to the extent practical, be consistent with the purpose and intent of this Article.
6. The proposed use will not create a hazard to individual or public health, safety and welfare due to the loss of the Prime Wetland Buffer Zones, the contamination of ground water, or other reason.
7. Any special exception granted shall not disturb the Seventy-Five (75') feet of the Prime Wetland Buffer Zones nearest the Prime Wetland.

8. When a parcel is being developed no landlocked land or unbuildable lot shall be created that would require a special exception or variance under this Article.
9. Studies/reports that may be required:
   a. Botanist.
   b. Biologist.
   c. Soil Scientist.
   d. Sediment/Erosion Control Plan.
   e. Impact on the wetland, water quality and habitat.
   f. Appropriate escrow shall be established for construction and inspection.
   g. Drainage calculations.
   h. Amount of area to be disturbed.

No Special exception shall be granted in the Prime Wetlands. No dredging and filling shall be permitted in the Prime Wetlands.

D. Pre-existing Use in the Prime Wetland Buffer Zone

1. Structures and uses existing at the time of the adoption of this ordinance may be continued.
2. Where an existing use within the buffer is destroyed or in need of extensive repair it may be rebuilt provided that such rebuilding is completed within one year of the event causing destruction and the new or rebuilt use shall not extend further into the buffer area than the original use.
3. Expansion of an existing use shall require a permit from the Code Enforcement Officer (CEO).
4. The application for a permit shall be accompanied by two copies of a drawing of the proposal prepared to scale or so dimensions are clearly defined. One copy shall be retained by the CEO and one copy shall be forwarded (by the CEO) to the Conservation Commission, a minimum of 5 working days prior to the issuance of permit.
5. If the proposed use, or expansion of use, is found to be detrimental to any function of the wetland the CEO shall not issue the permit.

E. Exemption for Residential Structures

Notwithstanding other provisions of this Article, the construction of additions and extensions to one and two family dwellings shall be permitted within the buffer zone provided that:

1. The dwelling lawfully existed prior to the effective date of this Article. (2-4-88)

2. That the proposed construction conforms with all other applicable ordinances and regulations of the Town of Derry.

Section 7.2 - POORLY DRAINED AND VERY POORLY DRAINED SOILS (other than Prime Wetlands)

A. Permitted Uses: Any of the following uses that do not result in the erection of any buildings and that are otherwise permitted by the Zoning Ordinance:

1. Poorly Drained Soils: Permitted uses in areas of poorly drained soil are as follows:

   a. Any use otherwise permitted by the Zoning Ordinance and State and Federal laws that does not involve the erection of a structure and that does not alter the surface configuration of the land by the addition of fill or by dredging except as a common treatment associated with a permitted use.
   b. Cultivation and harvesting of crops and according to recognized soil conservation practices including the protection of the wetlands from pollution caused by fertilizers, pesticides and herbicides used in such cultivation.
   c. Forestry and tree farming using best management practices in order to protect poorly drained soils and streams from damage and to prevent sedimentation
   d. Wildlife habitat development and management.
   e. Recreational uses consistent with the purpose and intent of this article as defined in the General Provisions and the Purpose stated in this section.

2. Very Poorly Drained Soils: Permitted uses in areas containing very poorly drained soils, marshes, open water and perennial streams are as follows:

   a. Uses specified under Section A.1 (a through f) shall be permitted; except that no alteration of the surface configuration of the land by filling or dredging and no use which results in the erection of a structure, except as provided for in Section A.2 (b) below, shall be permitted.

   b. The construction of fences, footbridges, catwalks and wharves only, provided:

      1. said structures are constructed on posts or pilings so as to permit the unobstructed flow of water;

      2. the natural contour of the wetland is preserved;

      3. the Conservation Commission has first reviewed and approved the proposed construction; and

      4. the Planning Board has received Conservation Commission approval in writing and has reviewed and approved the proposed construction.

3. Bogs: Permitted uses in bogs only.

a. The construction of fences, footbridges, catwalks and wharves only, provided:

1. said structures are constructed on posts or pilings so as to permit the unobstructed flow of water;
2. the natural contour of the wetland is preserved;
3. the Conservation Commission has first reviewed and approved the proposed construction; and
4. the Planning Board has received Conservation Commission approval in writing and has reviewed and approved the proposed construction.

B. Conditional Uses: A Conditional Use Permit may be granted by the Planning Board (RSA 674:21 II) for the construction of roads and other access ways; and for pipelines, powerlines and other transmission lines; water impoundment and the construction of well water supplies; and drainage ways to include streams, creeks or other paths of normal runoff water and common agricultural land drainage; provided that all of the following conditions are found to exist:

1. The proposed construction is essential to the productive use of land not within the Wetlands' Conservation District.

2. Design and construction methods will be such as to minimize detrimental impact upon the wetland, and the site will be restored as nearly as possible to its original condition.

3. No alternative which does not cross a wetland or has less detrimental impact on the wetland is feasible.

4. Economic advantage along is not reason for the proposed construction.

The Planning Board, with the concurrence of the Conservation Commission, may require the applicant to submit an environmental impact assessment when necessary to evaluate an application made under this section. The cost of this assessment shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the costs of other special investigative studies and for the review of documents required by particular applications.

Prior to the granting of a Conditional Use Permit under this section, the applicant shall agree to submit a performance security to the Planning Board/Public Works Department. The security shall be submitted in a form and amount, with surety and conditions satisfactory to the PUblic Works Director and approved prior to issuance of any permit authorizing construction.

C. Special Provisions:

1. No waste disposal systems shall be located closer than Seventy-Five (75´) to any wetland.
2. All construction, forestry and agricultural activities within One Hundred (100´) feet of any wetland shall be undertaken with special care to avoid erosion and siltation into the wetlands.
3. Where an existing use within the setback is destroyed or in need of extensive repair it may be rebuilt provided that such rebuilding is completed within one year of the event causing destruction, the new or rebuilt use shall not extend further into the wetland or setback area than the original use.
4. No buildings shall be located closer than Seventy-Five (75´) feet to any wetland one acre or larger in size and no building shall be located closer than Thirty (30´) feet to any wetland less than one acre in size.

D. Special Exceptions:

Upon application to the Board of Adjustment, a special exception shall be granted to permit the erection of a structure within the Wetland Conservation District on vacant lots provided that all of the following conditions are found to exist:

1. The lot upon which an exception is sought was an official lot of record, as recorded in the Rockingham County Registry of Deeds prior to the date of the first legal notice pertaining to this ordinance, posted and published in the Town of Derry, NH.
2. The use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot which are outside the Wetland Conservation District.
3. Due to the provisions of this ordinance, no reasonable and economically viable use of the lot can be made without the exception.
4. The design and construction of the proposed use will, to the extend practical, be consistent with the purpose and intent of this Article.
5. The proposed use will not create a hazard to individual or public health, safety and welfare due to the loss of wetland, the contamination of ground water, or other reason.

E. Filled Lands and Pre-existing Uses

1. Lands, which may have been wetlands but were filled under properly issues state and town permits granted prior to the adoption of this ordinance shall be judged according to the soils and flora existing at the site at the time application for building permit or subdivision is made.

2. Structures and uses existing at the time of the adoption of this ordinance may be continued provided that such use shall not be expanded to encroach further upon the wetlands or designated setback areas.

F. Exemption for Residential Structures

Notwithstanding other provisions of this Article, the construction of additions and extensions to one and two family dwellings shall be permitted within the wetland Conservation District provided that :

1. The dwelling lawfully existed prior to the effective date of this Article. (2-4-88)
2. That the proposed construction conforms with all other applicable ordinances and regulations of the Town of Derry

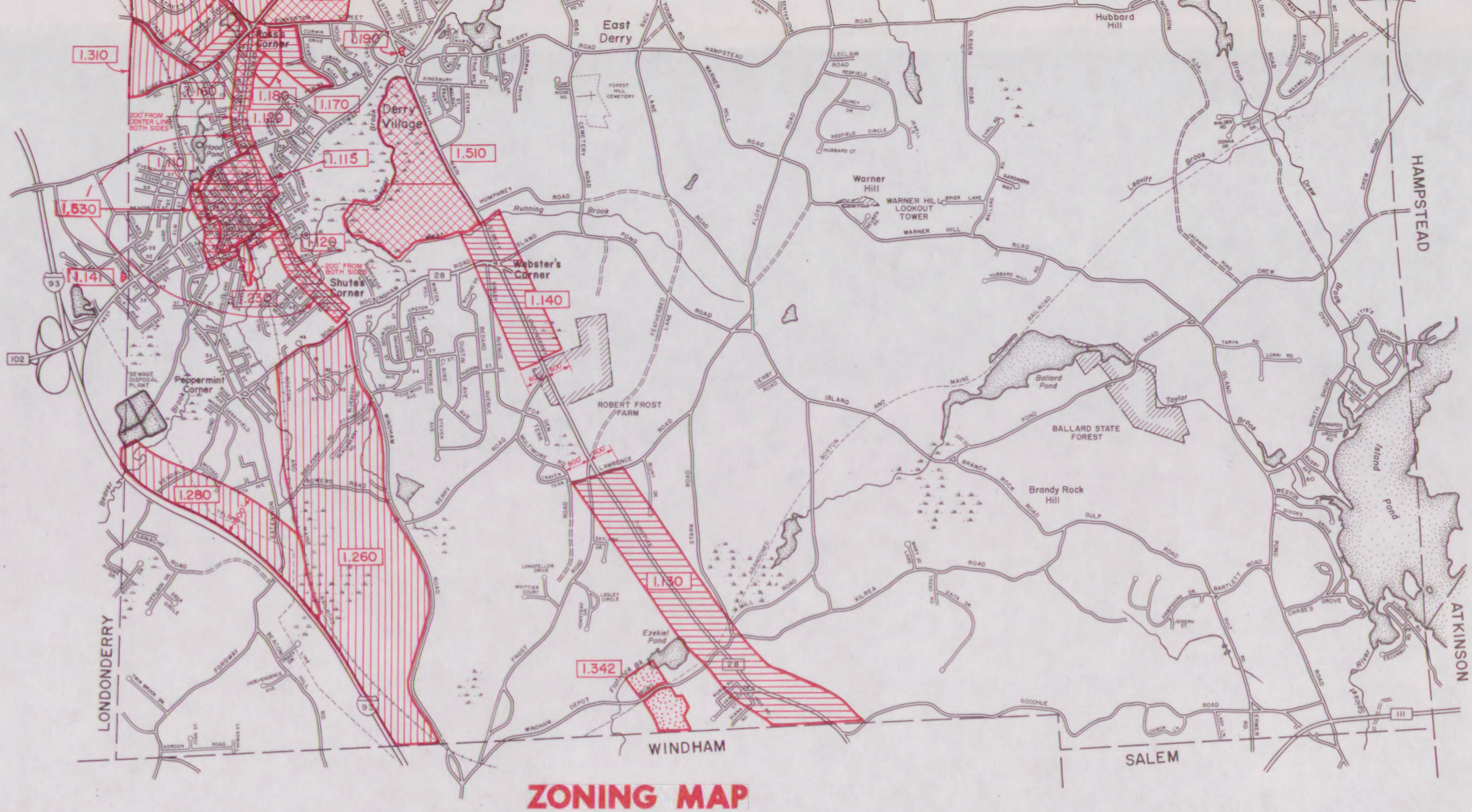
GENERAL PROVISIONS

The Zoning Board of Adjustment may itself, or upon petition from the Building Inspector, Conservation Commission, or the abutters, hire a qualified consultant or consultants to prepare such studies as are necessary to determine whether the conditions set forth above have been met. The costs of such studies shall be borne by the applicant.

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any other part thereof.

In all cases where the Wetland Conservation District is superimposed over another zoning district in the Town of Derry, that district whose regulations are the more restrictive shall apply.


AUBURN
CHESTER
LONDONDERRY
SANDOWN
N
1.341
1.270
1.240
1.300
1.250
1.210
1.290
1.220
1.520
Upper Shields Pond
Lower Shields Pond
Beaver Lake
Adams Pond
Moore Hill
Butman Hill
Eastman Hill
Cunningham
102
121
28
1 ELAINE AVE
2 ELEANOR AVE
3 LITAL DRIVE
4 OREGONIA CT
5 DEEP WOOD RD
6 GREENWICH RD
7 HANNON RD
8 KENNEL WAY
9 ZANDY ST
10 YOLO AVE
11 LAKE SHORE AVE
12 GRANDVIEW AVE
13 INDUSTRIAL LN
14 LARAWAY CT
15 DONGUARD AVE
16 MANCHESTER AVE
17 CLAREMONT AVE
18 LAGONIA AVE
19 BERLIN ST
20 LINCOLN ST
21 HOWARD ST
22 LAUREL ST
23 MOODY ST
24 MT. WASHINGTON ST
25 HARRIS CT
26 PEARL ST
27 MCAUSLISTER CT
28 PILLSBURY ST
29 WALKER CT
30 JENKINSON ST
31 LINWOOD ST
32 WYMAN ST
33 LINDEN ST
34 LAWRENCE ST
35 CLARK ST
36 VALLEY ST
37 WEST EVERETT ST
38 DESMARAIS AVE
39 CENTRAL ST
40 SAWYER ST
41 ABBOTT ST
42 CENTRAL CT
43 MERCHANTS ROW
44 NORTH AVE
45 SOUTH MAIN ROAD
46 ALGODIN CIRCLE
47 MT. OREGON ST
48 STEVENSON ST
49 UNION ST
50 BRIDGE ST
51 FLORENCE ST
52 LORELEI ST
53 SUNNY CIRCLE
54 WOODLAND AVE
55 SUNSET AVE
56 MUZZEY LANE
57 CHERRY LANE
58 MARK STREET
59 ESSEXWOOD AVE
60 TAYLOR BROOK LN
61 PHILIP ROAD
62 BRIAN AVE
63 TIGERTAIL CIRCLE
64 REDMOND CIRCLE



ZONING MAP

- INDUSTRIAL ZONE
- RETAIL BUSINESS ZONE
- MOBILE HOME PARK ZONE
- MULTI-FAMILY RESIDENTIAL ZONE
- RESIDENTIAL ZONE

1.230 Numbers in Zone Areas refer to sections in Zoning Ordinance. All others areas Residential Zone

100 ACRES
25 ACRES
1 ACRE

TOWN MAP

TOWN OF DERRY, N.H.

PLANNING BOARD

1985

Hans Klunder Associates, Planning Consultants

FEET 3000 2000 1000 0 1/4 1/2 3/4 1 MILE